REPORTS OF CASES

DETERMINED

IN THE

COURT OF NIZAMUT ADAWLUT,

FOR 1856.

WITH AN INDEX

VOL. V. PART II.

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1856.

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CASES

IN THE

NIZAMUT ADAWLUT

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND OTHERS

BOOTUN (No. 1, APPELLANT,) PEARY CHOWKEEDAR (No. 2, APPELLANT,) AND JEECHOO SAHOO* (No. 4.)

Bhaugulpore

1855.

July 2.

Case of BOOTUN and others.

The prisoners charged with wilful murder were acquitted owing to the insufficiency of the evidence.

CRIME CHARGED.—No. 1, wilful murder of Musst. Kunhya, deceased; Nos. 2 and 4, accessaries after the fact to the said murder.

CRIME ESTABLISHED—No. 1, culpable homicide of Musst. Kunhya, deceased; Nos. 2 and 4, accessaries after the fact to the culpable homicide of Musst. Kunhya.

Committing Officer.—Mr. R. O. Heywood, magistrate of Bhaugulpore.

Tried before Mr. William Bell, officiating sessions judge of Bhaugulpore, on the 29th March, 1855.

Remarks by the officiating sessions judge.—This trial was conducted on the 28th and 29th March, with the assistance of a jury. By the deposition of the prosecutor and witnesses, it is shown that he was absent from his home, when early one morning, the deceased and Bootun, prisoner No. 1, had a dispute about prosecutor's cow eating prisoner's grass, and that he struck her over the head and body with a bamboo, and that she screamed out and fell, and after lingering, insensible for two days, expired. Witnesses, Nos. 1, 2, 4 and 5, establish the facts, and burning of the body by the other prisoners; they also prove that she was in perfect health before the beating; witnesses, Nos. 1 and 2, prove the chowkeedar's knowledge of all the facts, of his

* Acquitted by the Nizamut Adawlut. See Nizamut Reports for 1855, page 678.

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Case of Bootun and others.

not informing the darogah when told to do so, and of his assisting in burning the body; witnesses, Nos. 6, 7, 8, 9 and 10, merely the gup of the place. It is very clear from the record that the zemindar became cognizant of the matter soon after it occurred and before the woman's death, and that he wished to suppress it, and therefore the chowkeedar and the rest did so, but upon the return of the son of the deceased, some eight or nine days after the death, he informed the darogah, and all came out.

The prisoners all plead *not guilty*.

No. 1, Bootun, denies and says it is an old quarrel and he does not know how she died; before the darogah and magistrate, that she broke her own head. His witnesses speak to his general good character, and one, No. 11, says he heard from the prisoner's brother, deceased died of illness.

Prisoner No. 2, Peary Chowkeedar, says the woman died a natural death, and he saw the body without wounds; before the darogah he acknowledges knowing of the quarrel and says he interdicted them burning her and told them to give intimation at the thannah. His witnesses merely speak to his good character.

Prisoner No. 4, Jeechoo, (nephew to the deceased) says he thought she died a natural death and therefore burnt her. He was at his shop, some eight *coss* from the place, and only returned home after her death.

Prisoners Nos. 3, 5, 6, 7, 8 and 9, are shown to have assisted at the burning, but it is not shown that they knew any thing which occurred before. Their witnesses prove that they were called by the chowkeedar and relations of the deceased.

The jury find all guilty, No. 1 of culpable homicide, the rest, accessaries after the fact to the culpable homicide of Musst. Kunhya, but I differ, and convicting No. 1, of culpable homicide and Nos. 2 and 4, of accessaries, I acquit the rest. The chowkeedar being cognizant of all the facts, from the first, and not giving information at the thannah, I consider particularly blamable.

Sentence passed by the lower court.—No. 1, five years' imprisonment with labor and irons, No. 2, two years' and No. 4, one year's imprisonment, without irons, and to pay a fine of 50 Rs. each, on or before the 28th April, 1855, or in default of payment, to labor until the fine be paid or term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) There is no proof whatever of the cause of death: there was no inquest in the mofussil or before the police. The deceased did not die till the third day after his assault, the nature of which is by no means clearly stated, and indeed owing to the darkness of the time, could not have been distinctly seen. In the absence of any thing to establish strong presumption, we acquit the prisoners.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND RUNJEET LALL

versus

PEERUN (No. 1, APPELLANT,) PANCHOO (No. 2,) MUNGLEE KHAN (No. 3, APPELLANT,) AND HEERA ZARGUR (No. 4.)

Bhaugulpore.

1855.

July 2.

Case of PEERUN and others.

The prisoners were convicted of burglary and theft and of receiving the stolen property and sentenced to various terms of imprisonment. Appeal rejected.

CRIME CHARGED.—No. 1, burglary and theft of property valued at Rs. 1,081-6, belonging to Moulvee Imdad Ali; Nos. 2 and 3, 1st count, burglary and theft of property to the above value; 2nd count, receiving and possessing stolen property knowing at the time of receiving it, that it had been obtained by burglary and theft; No. 4, knowingly receiving and possessing stolen property knowing at the time of receiving it that it had been obtained by burglary and theft.

CRIME ESTABLISHED.—No. 1, burglary and theft of property valued at Rs. 1,081-6, belonging to Imdad Ali; Nos. 2 and 3, receiving and possessing stolen property knowing at the time of receiving it, that it had been obtained by burglary and theft; No. 4, knowingly receiving and possessing stolen property knowing at the time of receiving it that it had been obtained by burglary and theft.

Committing Officer.—Mr. R. O. Heywood, magistrate of Bhaugulpore.

Tried before Mr. William Bell, officiating sessions judge of Bhaugulpore, on the 21st March, 1855.

Remarks by the officiating sessions judge.—This was a heavy case of burglary committed in Bhaugulpore, close to the sudder thannah, on the 31st of January last. Property valued at Rs. 1,081-6, was stolen, and Rs. 150 recovered; but as it appears from the confessions, the booty was quickly divided and no one was arrested for three days, it is fortunate even so much was recovered.

The person robbed was the sudder ameen of Arrah, and the prosecutor is his servant, who states that early in the morning his mistress discovered the burglary and her loss, and immediate notice was given at the thannah stating that he suspected Peerun (prisoner No. 1,) and others, and that their houses were unsuccessfully searched, neither they nor the property being forthcoming. Three days after Mahomed Jaha a dependant of his caught Peerun and made him over to the darogah, when he confessed, implicating the others, they were arrested; No. 2, confessed and produced the property; No. 3, denied, but an ornament was found which was identified.

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July 2.

Case of PEERUN and others.

The witnesses (Nos. 1, 9, 22 and 23,) identify the property produced, Nos. 2, 3, 4, 5, 6, 7, 8, 19, 20 and 21 prove its production by prisoners Nos. 2, 3 and 4.

Witnesses Nos. 10, 11 and 12, prove the voluntary confession of prisoner No. 1, before the darogah, and Nos. 14, 15, 16 and 17, that before the Moulvee, the magistrate being absent in the mofussil.

Witnesses Nos. 2, 3, 4 and 5, the voluntary confession of No. 2 prisoner, before the darogah and Nos. 14, 15 and 18, that before the Moulvee.

The prisoners all plead *not guilty*.

No. 1, Peerun, declares that the darogah beat him and compelled him to confess, and that he was frightened into doing so before the Moulvee. His witnesses Nos. 24 and 25, speak to his respectability.

No. 2, Punchoo, simply denies the fact and the confessions, but attempts no defence.

No. 3, Mungloo Khan, claims the ornament found and sworn to as the sudder ameen's property, he calls two witnesses who deny all knowledge of the ornament or his possessing one like it, it is not probable he would, considering his position in life.

No. 4, Heera Zargur, states that the gold found melted in his possession was given him by No. 2, and he thought it possible it was the remains of former wealth, that he is in the habit of receiving gold under such circumstances without witnesses, and he brings three witnesses, brother craftsmen, who state that he is respectable and that they do *from responsible persons* receive gold to work up without witnesses. But Punchoo No. 2, was before convicted of burglary and can hardly pass muster as a responsible party, besides before the darogah the prisoner clearly stated he received the gold before three witnesses, and that the gold was buried under a *nad* for security's sake.

The jury return a verdict of guilty against all, and I agree and sentence accordingly.

Prisoner No. 2, punished before for burglary and prisoner No. 3, for theft.

Sentence passed by the lower court.—No. 1, to five years, Nos. 2 and 3, each to seven years, and No. 4, to three years' imprisonment, all with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We see no reason to interfere with the sentences passed on the prisoners; No. 1, is convicted of aiding and abetting in the burglary, and No. 3, of receipt of stolen property, knowing it to be such.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND AUTOSEY BEBEE

versus

SHEIKH TALOOK.

24-Pergunnahs.

1855.

July 4.

Case of SHEIKH TALOOK.

The prisoner was charged with wilful murder of his wife, but was acquitted owing to the insufficiency of the evidence.

CRIME CHARGED.—Wilful murder of Abeerun Bebee.

Committing Officer.—Mr. J. R. Ward, magistrate of Howrah, 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 9th May, 1855.

Remarks by the additional sessions judge.—The statement of the prosecutrix is, that she was told by a neighbour that the prisoner, who had married her daughter two years' ago, had beaten his wife to death, because she stole and ate some cooked food, which had been intended for the prisoner's father. Prosecutrix went on this to see her daughter, but was not allowed to enter the house, the prisoner's mother telling her that she had died of illness, and there was no use in looking at her.

The chowkeedar gave notice of the death to the police jemadar the same day, but the darogah did not arrive to commence the investigation of the case till two days after. The prisoner and his friends had made good use of this delay, and had either persuaded or bought over the father of the deceased to represent the matter as a case of sudden death by cholera.

It seems from the evidence given on the trial that the prisoner did assault the poor child, who was his wife, with a stick, at one end somewhat thicker than the root of the thumb, and at the other considerably thicker. It is also shewn from the testimony of the civil surgeon that there was a visible mark of a blow over the spleen which organ, enlarged by previous disease, had been ruptured by a hard blow.

The defence set up is, that the deceased died of cholera, and some witnesses on the side of the defence have deposed that they heard that such was the case. But nothing is said of any remedies being applied, and the civil surgeon's deposition gives a complete refutation to that plea. Connecting then the evidence to the assault with the account given by the surgeon of the cause of death, there can be little doubt that the deceased died from the effect of a blow, and that that blow was given by the prisoner.

The law officer acquits the prisoner on the ground of the inadequacy of the evidence, but, in my opinion, the case is presumptively strong to find the prisoner guilty of culpable homicide. The child had committed a theft, and the act

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Case of SHEIKH TALOOK.

justified a moderate correction. But the blow was a hard one, the instrument was not a proper one with which to chastise a child, nor was the spleen the proper place to strike.

In opposition then to the *futwa*, I would convict the prisoner of culpable homicide, and sentence him to one year's imprisonment with labor commutable to a fine of twenty-five rupees payable in seven days.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We entirely concur with the *futwa*, that the evidence is quite inadequate to support a conviction in this case. The witnesses in no instance corroborate each other, and we acquit the prisoner.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BOOZOORG MEERA

versus

PHEDOO CHOWDRI (No. 1,) OMED ALLY CHOWDRI (No. 2,) NOWABOODEEN (CALLS HIMSELF NUBOO) (No. 3.)

Backergunge.

1855.

July 4.

Case of PHEDOO CHOWDRI and others.

The deceased was seen by the prisoners, to beat his wife, who had formerly lived under their protection. They rescued the woman and sent her away and then beat the deceased so that he died. They were convicted of murder and sentenced to transportation for life.

CRIME CHARGED.—Wilful murder of Bolayi Meera.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 17th May, 1855.

Remarks by the sessions judge.—The punishment, in my opinion, adequate to the crime committed, is beyond my competence to award, hence this reference.

The prisoners, No. 1, Phedoo Chowdri, No. 2, Omed Ally and No. 3, Nowaboodeen *alias* Nuboo, were committed to take their trial on a charge of wilful murder. The crime, in my opinion established, is that of being accomplices in aggravated culpable homicide.

The prisoners plead *not guilty*, the facts of the case are briefly these. The deceased Bolayi a young man aged thirty-two and in good heath was married to Musst. Asunee witness No. 7, who is a relation of the three prisoners. From her deposition it would appear, that her husband, the deceased Bolayi, did not find her sufficiently well in food and raiment. Asunee, before the occurrence of this case, had been living for nearly a year with her mother under the protection of the three prisoners.

It appears that the deceased had made attempts to regain his wife, but without success. On the 21st of March, 1855, Asunee

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Case of PHEDOO CHOWDRI and others.

witness No. 7, and the wife of the prisoner Phedoo Chowdri No. 1, went together to bathe in the *khal* near the house of the prisoners. The deceased took this opportunity to seize his wife, he took her to the house of witnesses Nos. 1, 2 and 8. The wife of Phedoo Chowdri ran and told her husband, upon this, the prisoner Nos. 1, 2 and 3, and Lodai Chowdri brother of Nos. 1 and 2, and who has not yet been apprehended immediately ran to the house of witnesses Nos. 1, 2 and 8. The woman Asunee was recaptured and sent home to the prisoners' house, and then commenced the assault upon the deceased Bolayi. It is in evidence* that the four prisoners beat the deceased most unmercifully, the injuries were inflicted with the fists and by kicks, the prisoner No. 1, is stated to have held the deceased by the scruff of the neck whilst the other prisoners literally pommeled him to death. The unfortunate man died on the spot.

* Witness No. 1, Hazaree.
,, ,, 2, Beshai.
,, ,, 3, Shabaz.
,, ,, 4, Dopai.

The body was sent in for medical examination, but it was in too decomposed a state to admit of it. The evidence to the mofussil inquest proves that there were marks of blows, such as would be inflicted by fists, on the body of the deceased.

The evidence for the prosecution is amply sufficient for conviction. Of the prisoners, two, Nos. 1 and 2, in their defence plead the usual *alibi*, the prisoner No. 3, states that he had an old feud about land with the prosecutor, and that the deceased Bolayi was bitten by a snake which caused his death, the witnesses for the defence of the prisoners Nos. 1 and 2, can say nothing in their favor. I have directed that one of the witnesses of prisoner No. 2, be committed to take his trial on a charge of perjury, he swore that he was no relation of the prisoner No. 2, whereas it is clearly proved that he is his son-in-law. The story about the deceased having been bitten by a snake is ingenious, but is quite unsupported by trustworthy evidence. Moreover the wife of the deceased Musst. Asunee witness No. 7, who is evidently anxious not to implicate the prisoners in this court, retracts her admission before the police magistrate, that she had heard that her husband had been beaten to death by the prisoners.

The *futwa* convicts the prisoners of being accomplices in the culpable homicide of Bolayi, I concur in this finding. It is clear that the prisoners were irritated at the conduct of the deceased, who it appears from the statement of the witness No. 7, Asunee his wife, seized her by the hair of the head whilst she was bathing and dragged her with her wet clothes on to the house of the witnesses Nos. 1, 2 and 8. This was the provocation, but the brutal and cowardly assault committed by the four prisoners on the deceased, after the woman Asunee had been recovered from

1855.

June 4.

Case of PHEDOO CHOWDRI and others.

him and sent back to the house of the prisoners, was wholly unjustifiable. The three prisoners are equally guilty, and I cannot recommend a lighter sentence than fourteen years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes). The mofussil inquest, held on the day after the death, shows that blood was exuding from the eyes and nose of the deceased, and contusions were apparent on the face, the neck, and behind the ears and other parts of the body. The evidence clearly establishes that the prisoners were the assailants, and though the blows are said to have been inflicted by their fists and elbows only, still, considering their number and the protracted assault which caused the immediate death of the deceased, a young man, we cannot convict the prisoners of any crime short of murder, and therefore sentence them to imprisonment for life in transportation.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*

Assam.

1855.

July 4.

Case of BOTOO *alias* KHORGODEB SURMAH and another.

The prisoner was convicted by the deputy commissioner of uttering forged documents, but was acquitted in appeal for want of evidence.

The Court noticed the insufficient and irregular mode in which the indictment had been prepared.

GOVERNMENT AND BOYON MENA

versus

BISHUN RAM DEKA PATGEEREE (No. 1,) BOTOO ALIAS KHORGODEB SURMAH (No. 2, APPELLANT.)

CRIME CHARGED.*—Forgery or uttering forged documents or papers.

CRIME ESTABLISHED.—Forgery or uttering forged documents or papers as principal.

Committing Officer.—Lieut. Vincent, magistrate of Durrung, Assam.

Tried before Major Hamilton Vetch, deputy commissioner of Assam, on the 15th March, 1855.

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* The following remarks were passed by the judge in the English department on revision of the statement of convictions.

To the deputy commissioner of Assam, No. 423, 14th May, 1855.

The Court, having had before them your letter No. 49, of the 19th ultimo, submitting the statements connected with the sessions of jail delivery held by you in the month of March last, and referring to the case of Bishun Ram Deka Patgeeree and another, Nos. 1 and 2, of statement No. 6, observe that the charges are confusedly stated and that the finding is equally informal and uncertain. Forgery is an offence perfectly distinct from uttering, and two separate counts should therefore have been employed; the 1st charging the forgery and the 2nd charging the prisoner with uttering. The crime established would of course have been altered so as to correspond with the charge.

1855.

July 4.

Case of Botoo *alias* Khorgodeb Surmah and another.

Remarks by the deputy commissioner.—This case had its origin in the collector's court, Mungledye, in Bhaudur, 1261, wherein Bunmalah stated that the amount of revenue and quantity of land entered in his and several other ryots' *pattahs*, had been altered by No. 1, Bishun Ram Deka Patgeeree, who had realized excess revenue thereon, this he had been told by No. 2, Khorgodeb Kagottee, in the month of Jeyt, but he cannot himself say whether the alterations were made by the Patgeeree or the Kagottee; on investigation by the deputy collector, who referred the case against the Patgeeree to the magistrate for trial, the magistrate on inspection, finding that the Kagottee's name was also attached to some of the receipts on the *pattahs*, summoned him also to take his trial along with the Patgeeree.

The prisoner, No. 1, Bishun Ram Deka, pleaded guilty.

The prisoner, No. 2, Botoo *alias* Khorgodeb, pleaded *not guilty*.

Two witnesses depose to having heard from the prisoner, No. 2, in Bhaudur, that the prisoner, No. 1, had made alterations in the *pattahs* and realized in excess to the revenue due on them, and one of these witnesses further deposes that his father paid one *kist* to, and received the receipt on the back of it from, the prisoner No. 2, Botoo *alias* Khorgodeb Kagottee.

Two witnesses depose to the confession made by the prisoner, No. 1, before the magistrate, in which he admitted to having committed the forgeries at the instigation of the prisoner, No. 2, and that they had shared the proceeds thus fraudulently obtained, the *pattahs* produced in court, thirty-two in number, have the seal and initials of the collector, and bear evident marks of having been altered; on three of these *pattahs*, receipts were written by the prisoner, No. 2.

In defence, No. 1, produces two witnesses, who depose to the prisoner, No. 2, giving over some *pattahs* to prisoner, No. 1, saying that he had added two or four annas on each, and telling him to take good care of them and no ill would happen.

No. 2 prisoner, in his defence calls two witnesses, one of whom deposes that hearing the prisoners quarrelling, he asked No. 1, the cause, who told him No. 2, was dissatisfied with him for altering some *pattahs*, the other that he does not know who altered the *pattahs*, but that prisoner, No. 2, told him it had been done by No. 1 prisoner, who had realized in excess to the revenue on them.

That the forgeries have been committed by making alterations in these *pattahs* for fraudulent purposes admits of no doubt, and the prisoner, No. 1, Bishun Ram Deka Patgeeree, makes full confession to having committed them, naming the prisoner, No. 2, as his confederate, and although there is no proof that the prisoner, No. 2, Botoo *alias* Khorgodeb, had a hand in the actual forgeries, it is established by the evidence that he was

1855. July 4. Case of BOTOO *alias* KHORGODEB SURMAH and another.

fully cognizant thereof, he being the village writer in Government employ, under the prisoner No. 1, and having this knowledge, that he was concerned in uttering, and making fraudulent realizations on some of them, and giving his receipts; it is true, as alleged by him in his defence, that he gave notice to the collector, but this appears only to have been done when the matter was brought forward by others against the prisoner, No. 1, and I am of opinion that the charge is fully proved against the prisoner, Bishun Ram Deka, as principal, and I convict him of the same, and I also convict the prisoner, No. 2, Botoo *alias* Khorgodeb, in a minor degree of uttering; the prisoner Bishun Ram Deka, I sentence to five (5) years' imprisonment with labor, and the prisoner, No. 2, Botoo *alias* Khorgodeb, to three (3) years' imprisonment both from this date.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) Botoo, the prisoner No. 2, has appealed, and it appears that his conviction, of uttering the forgeries referred to, is based on the fact of his having been employed under the chief offender, Bishun Ram, and in the execution of his duty, had collected the rents as recorded in the *pattahs* fraudulently altered by Bishun Ram, and endorsed the receipts on the back of them.

There is no proof that the prisoner, Botoo, participated directly or indirectly in the proceeds of the fraud, except that he is accused by the other prisoner of having done so. This is no legal evidence against him, and the Court acquit him and order his release.

The Court further remark that a charge of forgery or uttering forged documents or papers is far too general, the nature of the particular documents should have been specified.

PRESENT:
SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND SHEIKH LOOTF ULLEE

RUGHOONATH ROY (No. 1,) REOTEE (No. 2,) BISHNEE (No. 3,) GIRDHARY (No. 4.)

Tirhoot.
1855.
July 5.
Case of RUGHOONATH ROY and others.

One prisoner was convicted of wilful murder, and the plea of extenuation urged in his confession not being proved, he was sentenced capitally.
The other prisoners were acquitted.

CRIME CHARGED.—Prisoners Nos. 1, 2 and 3, 1st count, being accomplices in wilful murder of Sheikh Roshun; 2nd count, privity before and after the fact, and prisoner No. 4, privity after the fact.

Committing Officer.—Mr. F. A. Glover, joint-magistrate of Chumparun.

Tried before the Hon'ble Robert Forbes, sessions judge of Tirhoot, on the 30th April, 1855.

Remarks by the sessions judge.—I do not refer this case for the final orders of the superior Court, because of a difference of opinion between my law officer and myself, but because as we agree in convicting one of the prisoners of being an accomplice in wilful murder and the other three of privity to that offence, the nature of the crime, which we consider proved against them all, puts the issue of the final order beyond the competence of this court.

The following are the facts and circumstances of the case, as elicited from the record and evidence adduced.

The prosecutor, who is the son of the murdered man, Sheikh Roshun, gave information at the thannah of Bunjuriah, on the 22nd November last, to the effect that about 8 o'clock in the evening of Sunday, the 19th idem, the deceased and the witnesses, Sheikh Hossein Buksh, No. 15, and Sheikh Talawun, No. 16, with Sheikh Doorbal, No. 17, and another person, Sheikh Shubrattee by name, and himself (prosecutor) were sitting at the latter's door, when the deceased said to him (prosecutor "the Karjee" meaning Shumsher Jung Pauree) the Kutkeenadar of the mouzah, "has sent for me" and to whom the deceased having accordingly repaired, he (prosecutor) lay down to sleep; on awaking, however, in the morning, he missed his father from his *charpoy*, and proceeding to the "Karjee's" he enquired of him and of the prisoner, Bishnee Opudya, No. 3, what had become of his father, who had gone there the night before, and they told him that the deceased had certainly come there, but had immediately gone away; and the prosecutor was altogether unsuccessful in the search, which he made for his father in all directions.

1855.

July 5.

Case of RUGHOONATH ROY and others.

No trace was found of the deceased, nor any clue as to what had become of him, until the 26th November, when the prosecutor gave a second notice at the thannah to the effect that one Bheeka Aheer, witness No. 22, having gone to the Telpore tank to gather *lotus* leaves, felt a corpse touch his leg or foot in the water, and on the thannadar's proceeding to the tank and having the body taken out of the water, the prosecutor, and others at once recognised it as that of the missing Sheikh Roshun, a *gurrah* being found tied to the body on each side in order that when the *gurrahs* filled with water the corpse might remain under water, and the thannadar of Mooteeharee having been, by order of the joint-magistrate, associated with the darogah of Bunjuriah in the enquiry, those two officers jointly investigated and reported on the case, neither of them, however, having given satisfaction in prosecuting the enquiry to the joint-magistrate, and both being eventually suspended.

It is in evidence that before this, a dispute had existed between the "Karjee" and the deceased, regarding some *mocurreree* land, the former being anxious to cancel the *mocurreree*, to which the latter would not agree, and the prosecutor having suspected the prisoners, Rughoonath Roy, No. 1, Bishnee Opudya, No. 3, both employed as servants by the "Karjee" and the prisoner, Reotee Dosad, the Gorait, because of his being intimate and associating with them, of being concerned in making away with his father, had them all taken up. The prisoner, Rughoonath Roy, voluntarily confessed to the darogahs before attesting and subscribing witnesses* that the deceased having frequently tried to seduce his (prisoner's) wife, he, prisoner, took counsel with the prisoner Reotee, and as they both considered that this was a matter affecting their respectability, they agreed to lie in wait and kill him. That from that time they were both watching their opportunity and eventually on Sunday, about midnight, the deceased came to his (prisoner's) house, and he (prisoner) and Reotee Dosad, who had beforehand been standing concealed, saw the deceased sit down on the *charpoy* of his (prisoner's) wife, on which Reotee and he (prisoner) laying hold of the deceased, dragged him off the bed, and throwing him on the ground, strangled him, and after he was dead, they threw the body into the Telpore tank, having first attached *gurrahs* to the waist, after which, they concealed under ground in a field north of the said tank, the deceased's clothes, consisting of a *gilaf*, *dhotee*, *chudder*, and *angoochah* or handkerchief.

* No. 5, Sheikh Jharroo.
,, 6, Rughoobur Pandy.
,, 7, Ramchurn Sahoo.

The prisoner, Reotee, No. 2, also before the same witnesses, made a voluntary confession in the mofussil to the effect that Rughoonath Roy, having before told him of his intention to lie in wait and kill the deceased, at midnight of the Sunday, the pri-

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soner, Rughoonath Roy, came to him and told him that he (Rughoonath Roy) and the prisoner, Bishnee Opudya, had strangled the deceased. But not believing them, he (Reotee) went himself to see and found the body lying inside Rughoonath Roy's house, and Bishnee Opadya was standing there, and both of them told him (Reotee) that they had killed Sheikh Roshun and enjoining him (Reotee) to secrecy, they asked him to take part with them in throwing away the body, which, however, he (Reotee) refused to do.

The prisoner, Bishnee Opadya, No. 3, pleaded *not guilty* in the mofussil, and the prisoner, Girdhary, No. 4, as chowkeedar of the mouzah, and on his defence for concealing the murder before witnesses,* confessed his privity after the fact to the following effect. About midnight of the Sunday he was going his rounds, when "Reotee" came running to him and told him to go with him to Rughoonath Roy's house, where he accordingly went, and found the body of Sheikh Roshun lying at the door, where both Rughoonath Roy and Bishnee Opudya, were sitting. On his asking those persons, what had happened, they both admitted that they had strangled the deceased, and on this, he, (Girdhary) said that he would give information at the thannah, upon which they threatened to kill him in the same manner, on which account he did not give information at the thannah.

* No. 5, Sheikh Jharroo.
,, 7, Ramchurn Sahoo.
,, 8, Sheikh Koodrut.

In the foujdary court, the prisoners, Rughoonath Roy, Reotee and Girdhary, made similar confessions to what they had done in the mofussil before attesting and subscribing witnesses† with one or two immaterial differences and expressions not affecting their confessions of complicity or privity, the prisoner, Bishnee Opudya, also pleading in the foujdary court, as he had done in the mofussil, *not guilty*.

† No. 9, Munnoo Lall.
,, 10, Churunjuvee Lall.
,, 11, Hunooman Suhye.

The wife‡ of the prisoner Rughoonath Roy, on account of his alleged attempted intrigue with whom the deceased was murdered, deposed that on the Sunday night she was sleeping on her *charpoy*, when, about midnight, the deceased came into the house, and sitting with one leg on her *charpoy*, kept the other on the ground, which awoke her, and she gave the alarm of "thieves," on which the deceased gagged her month with a cloth and on her pinching him, he was about to decamp, when her husband, Rughoonath Roy and Reotee arrived, and in consequence of his having disgraced her, they together strangled him, after which Bishnee Opudya arrived, and on his asking them why they had killed the deceased, Rughoonath Roy answered, "We killed him because he insulted my wife" and

‡ No. 12, Mussumut Rughoee.

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Reotee also said that the deceased, being a Mussulman, had come to disgrace a Hindoo, on which account they had killed him, and after this, Rughoonath Roy and Reotee, took the body out.

This witness being questioned whether she saw the strangling with her own eyes, answered that she did not. She was, she said, inside, the night was dark and the strangling took place at the door.

The two witnesses marginally* named the first, the mother, and the second, the sister, of the prisoner, Rughoonath Roy, deposed that they were sleeping together in the northern apartment of that prisoner's house, when they heard something like the noise of people moving about, and getting up, they saw Rughoonath Roy and Reotee Dosad standing at the door of the western apartment and a corpse lying on the ground, the prisoner, Bishnee Opudya, was also standing in the court-yard, that on the mother, Mussumut Hemeea, asking them what had happened, Reotee replied that "he came to disgrace your daughter-in-law, on which account he was killed," the other witness, Mussumut Tulhwa, stating that Rughoonath Roy and Reotee both made that reply, and that both helped to carry the body outside.

* No. 13, Mussumut Hemeea.
,, 14, Mussumut Tulhwa.

Two witnesses† deposed to being present on the Sunday night at the prosecutor's door, when the deceased said that the Karjee had sent for him, where he accordingly, in their presence, set out to go.

† No. 15, Hossein Buksh.
,, 16, Sheikh Talawun.

The two witnesses‡ deposed that on the night of the Sunday, they had gone to the Karjee's, the former only accompanying the latter, who went to get some musk from the "Karjee" for his son, when they saw the deceased and the prisoners, Rughoonath Roy and Reotee, the witness, Doorbul, saying that the prisoner, Bishnee Opudya, was also there.

‡ No. 17, Sheikh Doorbul.
,, 18, Boodhun.

Two witnesses§ deposed that about 11 o'clock on the Sunday night, they saw the deceased, the prisoners, Rughoonath Roy and Bishna Opudya, sitting near a tank outside the village, and heard them talking about some *mocurreree* land.

§ No. 19, Peer Golam Durzee.
,, 29, Hossein Allee Khan.

One witness|| employed by the prisoner, Bishnee Opudya, to watch his paddy in a *kallian*, deposed to seeing the prisoners, Rughoonath Roy, Reotee and Bishnee Opudya, who took him (witness) along with them, he helping to carry the body, threw the deceased into a tank after attaching *gurrahs* to it.

|| No. 21, Daharri Chumar.

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* No. 22, Bheka Aheer.

One witness* deposed that having gone to the Telpore tank to gather *lotus* leaves, he felt a corpse strike against his foot in the water, and on its being taken out, it proved to be that of the deceased, Sheikh Roshun.

† No. 23, Sheikh Turshun.
,, 24, Kishna Koeree.
,, 25, Numkee Lohar.
,, 26, Sheikh Bukus.
,, 27, Gouree Loll.
,, 28, Bhekhee Shahoo.
,, 29, Qalaroo Khan.
,, 30, Nuzur Shah.
,, 31, Lall Mahomed.
,, 32, Sohbut Khan.
,, 33, Qoothee Gowala.
,, 34, Ramsurun Lall.
,, 35, Sheikh Jana.
,, 36, Sheikh Hazaree.

The fourteen witnesses,† named in the margin, deposed to having heard (as some of the above witnesses also did) that the body of the deceased was found in the Telpore tank, that Rughoonath Roy, Reotee and Bishnee Opudya, had killed the deceased in consequence of a dispute regarding some *mocurreree* land, and that they had never heard of any criminal intimacy between the deceased and the wife of Rughoonath Roy.

A period of eight days having elapsed after the deceased was killed to the finding of his body, the latter was too far decomposed to admit of medical examination, when it reached the sudder station.

In this court, the prisoners Rughoonath Roy, Reotee and Girdhary, repeated the confessions of complicity or privity, which they had previously made in the mofussil and foujdary court, the prisoner, Bishnee Opudya, continuing to plead *not guilty*.

The defence of the prisoner, Rughoonath Roy, was that he killed the deceased by throwing him down on the ground, having caught him sitting on his wife's *charpoy*. He called no witnesses.

The prisoner, Reotee's defence was a repetition of his confessing answer in the foujdary court, and he too called no witnesses.

The prisoner, Bishnee Opudya, in his defence only pleading his entire ignorance of the occurrence, urged that he had been unjustly implicated, and called three witnesses, whose evidence however, in no degree exculpated him.

The defence of the prisoner, Girdhary, was likewise a repetition of his confessing answer in the foujdary court. He called three witnesses, who however, deposed to their knowing nothing.

The *futwa* of the law officer convicts the prisoner, Rughoonath Roy, of being an accomplice in the wilful murder of the deceased, Sheikh Roshun, the prisoner Reotee of privity both before and after the fact, and the prisoners, Bishnee Opudya and Girdhary of privity after the fact, declaring the first prisoner liable to severe punishment by "*acoobut-i-shudeed*," and the three latter to discretionary punishment by "*tuzeer*."

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Irrespectively of the confessions of complicity by one, and of privity by two others of the prisoners, the chain of evidence on which all four have been found guilty, is, in my judgment, sufficiently clear and conclusive.

It is in evidence that a dispute having for some time existed between the *kutkeenadar*, Shumsher Jung Pauree, better known as the "Karjee" and the deceased, Sheikh Roshun, regarding some *mocurreree* land, on the Sunday night, the deceased having mentioned his intention of going to the Karjee's in consequence of the latter's having sent for him to talk about the *mocurreree*, set out to go there, and that having been seen the same night first at the Karjee's, he was for the last time seen alive, sitting at the door of Rughoonath Roy's house, in company with that prisoner and the prisoners, Reotee and Bishnee Opudya.

It appears too from the thannah papers that the prosecutor having on the 22nd November, given information at the thannah of his father being missing, the prisoner, Reotee (as Gorait) and the prisoner, Girdhary (as chowkeedar) gave in a joint notice at the thannah the same day to the effect that the prosecutor having himself purposely concealed his father in consequence of a dispute with the *kutkeenadar* about rent, had given in a false report, these two prisoners having themselves subsequently confessed their privity to the murder.

I concur with the joint-magistrate in discrediting, as most improbable, the alleged ground of provocation in the story of the deceased's having tried to seduce the wife of the prisoner, Rughoonath Roy. In addition to the deceased having been a very old man, there is no satisfactory proof whatever, even from the evidence of the prisoner's wife herself of his ever before having made criminal advances to her. Without doubt, the real cause of enmity was the dispute about the *mocurreree*, and I agree with the joint-magistrate in thinking that the murder was planned by the *kutkeenadar*, and perpetrated by the prisoners as his instruments, and I consider that the privity of the prisoner, Reotee, *before* the fact, is proved from the statement in his confession at the thannah, that the prisoner, Rughoonath Roy, had told him of his intention to lie in wait and kill the deceased, to which statement, when questioned in the foujdary court, he adhered.

I should perhaps notice why, with reference to the principle laid down in precedents of the Nizamut Adawlut that the wife should not be called upon to give evidence against her husband, except in cases of urgent necessity, the testimony of Musst. Rughoee, the wife of the prisoner, Rughoonath Roy, was admitted in this case. As in addition to her evidence being material, it being on account of his alleged attempt to seduce her that her husband, the prisoner, Rughoonath Roy, declared that he had killed the deceased, it appeared that in the foujdary court

she had named other prisoners besides her husband, I did not consider myself at liberty to decline to receive her evidence, for whatever it might be worth, in a case in which her's was the only testimony at all approaching to ocular proof.

In approval of my law officer's *futwa*, I would convict the prisoner, Rughoonath Roy, of being an accomplice in the wilful murder of Sheikh Roshun, deceased, the prisoner, Reotee, of privity both before and after, and the prisoners, Bishnee Opudya and Girdhary, of privity after the fact, and the case will be referred for the final orders of the Nizamut Adawlut in respect to all four prisoners with a recommendation that the prisoner, Rughoonath Roy, be sentenced to imprisonment in transportation for life, the prisoner, Reotee, to imprisonment for fourteen years, and the prisoners, Bishnee Opudya and Girdharee, to imprisonment for seven years, all with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner No. 1, confesses throughout that he killed the deceased, because he found him sitting on his wife's *charpoy*, when awakened by her cries. His wife, Rughoee, when cross-examined, said, the deceased one day stopped her, as she was returning from a tank, and that she mentioned this to her husband. She has, however, no witnesses to that fact, and admits that nothing of the kind ever before took place, and that she was not acquainted with the deceased. The story of the visit by night is disbelieved by the sessions judge, who states the deceased was an old man, and that there is no satisfactory proof of his ever having made any advances to her.

There is, on the other hand, proof of enmity between the deceased and Shumsher Jung Pauree, a *kutkeenadar*, about some *mocurreree* lands, and that the deceased, with the prisoner No. 1, Rughoonath Roy, and others, was at Shumsher's house on the evening of the murder, after which they were seen together at the prisoner's house also.

The admission of Rughoonath convicts him of the wilful murder of Sheikh Roshun, if his plea in defence is not established. There is no proof whatever that the deceased was found in the prisoner's house, and seized by him under the circumstances stated by the prisoner. We convict the prisoner of being an accomplice in the murder, and seeing no grounds for mitigation of punishment, sentence him capitally.

The prisoners, Nos. 2 and 3, are charged as accomplices and with privity before and after the fact, and prisoner, No. 4, with privity after the fact only. No such charges could lie against them nor is there any evidence against them, which would warrant a conviction. We acquit them and they must be immediately released.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND MITUN PAUL

versus

SAGUR SINGH (No. 3,) CHOORKA ALIAS HIRO MAHTOO (No. 4, APPELLANT) AND GOKOOL (No. 5.)

Hazareebaugh.

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Case of CHOORKA *alias* HIRO MAHTOO and others.

The prisoner who was charged with dacoity was acquitted in appeal, his confession before the police having been obtained by improper means, and the evidence as to his receipt of the stolen property being insufficient.

CRIME CHARGED.—Dacoity and plundering of property to the value of Rs. 1,832-3, and knowingly receiving and keeping the plundered property.

CRIME ESTABLISHED.—Privity to dacoity, and knowingly receiving and keeping property obtained by dacoity.

Committing Officer.—Captain G. N. Oakes, senior assistant commissioner, Manbhoom.

Tried before Major J. Hannyington, deputy commissioner of Chota-Nagpore, on the 7th April, 1855.

Remarks by the deputy commissioner.—The prosecutor's house was (in his absence) entered on the night of 14th December, by a gang of dacoits, who plundered it of property to the alleged value of Rs. 1,832-3. The prisoner, Sagur, No. 3, having been apprehended two days afterwards, on another charge, confessed participation in this affair, gave up various items of the plundered goods, and named the remaining prisoners and others as his associates. This prisoner and the prisoners, Choorka, No. 4, and Gokool, No. 5, confessed the fact before the police officer; and privity thereto, and sharing the plundered goods therein, before the senior assistant. In the house of the prisoner, No. 3, some of the plundered goods were found, and the prisoners, Nos. 4 and 5, produced each portions of the same. In their defence, the prisoners retracted their confessions, alleging that they had been maltreated by the darogah, and Choorka moreover, stated that to induce his confession, the darogah had apprehended his sister and kept her in confinement for some hours. In proof of this defence, some of the witnesses for the prosecution bore testimony, and there is at least a presumption of its truth. But the confessions of the prisoners before the senior assistant were certainly voluntary, and that the property found with them belongs to the prosecutor is not denied. I therefore, in concurrence with the jury, convicted the prisoners.

Sentence passed by the lower court.—Imprisonment for seven years each with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The only prisoner appealing is Choorka Mahtoo, No. 4. Of this person the deputy commissioner has stated in his remarks as follows, "Choorka moreover stated

that to induce his confession the darogah had apprehended his sister and kept her in confinement for some hours. In proof of this defence some of the witnesses for the prosecution bore testimony, and there is at least a presumption of its truth." The deputy commissioner however, considering the confession taken before the senior assistant, must have been voluntary, and that property belonging to the prosecutor was found with him, convicted the prisoner.

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We quite agree with the deputy commissioner that there is good reason to believe the prisoner's confession in the mofussil was *not* voluntary, and with such an impression in our minds, we cannot allow the repetition of that confession when brought before the assistant, to prejudice the prisoner. As to the finding of property with him, we observe that the witnesses to the fact depose *that* the prisoner after having been abused and threatened by the darogah, accompanied that officer to his *khamar*, and the witnesses were afterwards shown property which the darogah said had been found there; such evidence is altogether insufficient to establish the prisoner's guilt and we acquit him and order his release. As far as this prisoner is concerned, the conduct of the darogah appears very reprehensible.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

Nuddea. 1855. July 6. Case of AINOODDEE MEER and others.

GOVERNMENT AND CHUNDER COOMAR

versus

AINOODDEE MEER (No. 3,) MEAJAN MOLLAH (No. 4,) SRIHORI BISWAS (No. 5.)

The prisoners were convicted of burglary and theft and receiving stolen property, and sentenced to various terms of imprisonment by the sessions judge. Appeal rejected.

CRIME CHARGED.—1st count, burglary in the house of Chunder Coomar in which property to the value of Rs. 295-5-10 was plundered; 2nd count, knowingly receiving and keeping a part of the property obtained by the above burglary.

CRIME ESTABLISHED.—Prisoners Nos. 3 and 4, burglary and theft, prisoner No. 5, having in his possession property obtained by burglary knowing it to have been so obtained.

Committing Officer.—Mr. A. J. Elliot, magistrate of Nuddea.

Tried before Mr. C. Steer, additional sessions judge of Nuddea, on the 28th April, 1855.

Remarks by the additional sessions judge.—The prisoner No. 3, Ainooddee and Meajan No. 4, were stopt by witness No. 1, Hari Madhob, a chowkeedar of the town of Kishnaghur, who seeing them at a very early hour of morning with bulky property on their persons, suspected they might not have come

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honestly by it. Not satisfied with their answers, he insisted on taking them to the thannah, when the prisoners seeing what awaited them, offered the chowkeedar all the property they had, if he would let them go. This confirmed the suspicions of the chowkeedar, and he took them forthwith to the thannah. There they made full confessions that they got the property by the commission of burglary in some house, which they offered to point out. They also stated that prisoner No 5, Srihori went with them to commit the burglary and that he had received his share of the plunder. On the search of this man's house, sundry stolen property was found in it belonging to the prosecutor, who learnt that his house had been robbed, at the same moment that he heard of the capture of the thieves. Prisoners Ainooddee No. 3, and Meajan No. 4, confessed having committed the burglary before the magistrate; prisoner No. 5, Srihori, stated that he picked up the property which had been discovered in his house, out of a garden adjoining his premises.

Prisoner No. 3, Ainooddee, and No. 4, Meajan stated in their defence before the sessions, that they had been given some intoxicating drink by prisoner No. 5, Srihori; that in that state they could not tell what they had been made to do, or how they became possessed of the property found upon their persons.

The defence of prisoner No. 5, Srihori, is the same as he made before the magistrate.

The prisoners called witnesses to character, but the evidence furnished by these persons was unfavorable to the prisoners.

The case is a clear one against all the prisoners, and the defence of each is equally absurd. I convict prisoner No. 3, Ainooddee, and prisoner No. 4, Meajan, in conformity with the *futwa*, of burglary, and prisoner No. 5, Srihori, of having in his possession stolen property knowing it to have been stolen, and sentence them, the two former to five years' imprisonment with labor in irons, and the latter to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The petitioners have assigned no reason for the appeal; and on reference to the record, we see no cause to interfere.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

BHOOPUT SINGH (No. 18,) NIRPUT SINGH (No. 19,) DUKKHAN SINGH (No. 20,) BHOUGRAJ SINGH (No. 21,) HEERA SINGH (No. 22,) OONJERA SINGH (No. 23,) MITURGEET SINGH (No. 24,) MOHUN SINGH (No. 25,) BHUKROO SINGH (No. 26,) BUTTAN SINGH (No. 28,) KHOOBLOLL SINGH (No. 30,) CHHUBILA SINGH (No. 31,) LEELA SINGH (No. 32,) DEBEE SINGH (No. 33.)

Bhaugulpore.

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Case of BHOOPUT SINGH and others.

Proceedings and trial and conviction, in a case of forgery, illegal and quashed.

CRIME CHARGED.—Prisoners Nos. 18 to 26, 28, 30 and 31, knowingly uttering a forged *pattah* dated 15th *Shuhurzicad* 1269 *Higree*, corresponding to the 21st August, 1853, and 3rd Bhadon, 1260 Fuslee, purporting to be the permanent lease of mouzah Pubye in pergunnah Soorujgurrah; Nos. 32 and 33, 1st count, accessaries before and after the fact; 2nd count, privity.

CRIME ESTABLISHED.—Prisoners Nos. 18 to 26, 28, 30 and 31, knowingly uttering a forged *pattah* dated 15th *Shuhurzicad* 1269 *Higree*, corresponding to the 21st August, 1853, and 3rd Bhadon 1260 Fuslee, purporting to be the permanent lease of mouzah Pubye in pergunnah Soorujgurrah; prisoners Nos. 32 and 33, accessaries before and after the fact.

Committing Officer.—Mr. W. T. Tucker, magistrate of Monghyr, Bhaugulpore.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 18th April, 1855.

Remarks by the sessions judge.—This is a case of forgery. After the death of Syud Mahomed a zemindar in zillah Monghyr, his widow applied to have her name entered as proprietress of the estates in the collector's register; the prisoners opposed the petition and filed the deed which the assistant collector holding to be a forgery, transmitted it and the parties concerned to the magistrate, who committed the prisoners for uttering a deed knowing it to be forged, &c. The case came on before the court in the 4th quarterly sessions of 1854, February 10th, 1855, but as no witness was produced to prove the filing of the deed in the collector's office, the trial was necessarily postponed until the present sessions, and as in the interval which has elapsed since their commitment, prisoners Meghun Singh No. 27, Teka Singh No. 29, and Toolshee Singh No. 34, have died, only fourteen were brought to trial. For the prosecution, eight

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servants of the deceased zemindar are produced. The 1st his gomastah swears to the permanent lease filed by the prisoners being a forgery. The signature is not genuine nor the writing deceased's, his manner of affixing his seal to his signature is totally different. He recognises the signature on other papers as undoubtedly Syud Mahomed's, he swears that all papers of this nature were invariably sent to him for registry, that the deceased went in a Budgerow from Patna to Bhaugulpore, but never visited Pubye, that all stamped papers were purchased through him. That there were always disputes with the Pubye *ryots* and a summary suit against prisoners Nos. 19 and 27. The other servants prove that the deceased zemindar never left his boat, but on one occasion to visit his garden, that he never went to Pubye and that had any lease been granted they must have known of it, they swear that the deed produced is a forgery and that no man of the name of Thakoor Pershad was ever in the zemindar's employ. Witnesses Nos. 9, 10 and 11, prove the uttering the deed alleged to be forged.

The prisoners all plead *not guilty* and rest their defence on the validity of the deed, they assert that it was granted by the deceased on the 3rd of Bhadon, 1260, F. S. when he came to Pubye in a *palanqueen* accompanied by Thakoor Pershad and some ten or twelve bearers, that they, the prisoners, gave him five hundred rupees, and that he produced stamps from his box, counted the money and signed and sealed the permanent lease after which he remained at Pubye that night, and they produce several witnesses in support of their story, but they are chiefly relations of one or other of the prisoners or interested in the lease.

I do not consider the defence worth any thing, it is highly improbable the deceased would go from his own boat and his cutcherry at Ulleemnuggur to Pubye only a mile off to transact such an important piece of business and remain there the whole night without any of his people, that he should merely require the presence of Thakoor Pershad, whose existence is ignored by his servants and *amlah*, and that none of the zemindary people, putwarrees, goraits or chowkeedars were sent for, but that all present, witnesses and all, should be interested parties as is most clearly proven by the witnesses for the defence. It is not probable that the zemindar would have given a permanent lease of such a valuable farm for so trifling a *nuzzerrannah*, nor is it likely if such a lease had been granted in 1260, F. S. that when the prisoners Nos. 19 and 27, were sued in a summary suit in the collector's office for arrears of rent, that they should not have alluded to it. The writings on the permanent lease and on paper bearing the deceased's undoubted signature are widely different, and I have not any doubt of the deed being a forgery. The deed was filed by prisoners Nos. 20 and 23, on the 20th

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of June, but the prisoners Nos. 18, 19, 21, 22, 24, 26, 28, 30 and 31, associated themselves in the issuing of the deed by the petition they presented in the collectorate, and prisoners Nos. 32 and 33, are clearly implicated as accessaries both before and after the fact in signing the paper, which they knew to be forged.

The jury* return a verdict of guilty in which I agree and sentence them accordingly.

* Deonarain Singh.
Gopal Lall.
Kodyelall.

Sentence passed by the lower court.—Prisoners Nos. 18 to 26, 28, 30 and 31, each to five (5) years' imprisonment with labor and without irons from 29th November, 1854; prisoners Nos. 32 and 33, each to three (3) years' imprisonment from 29th November, 1854, without labor and irons, and to pay a fine of twenty-five rupees each on or before the 17th May, 1855, or in default of payment to labor.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) This case was sent by the collector to the magistrate. The collector was not acting judicially when it was before him. The magistrate investigated the case, and committed it, without any charge preferred on oath to him, which is indispensible under Section 5, Regulation IX. 1793, and Sections 3 and 4, Regulation IX. 1807. Therefore the proceedings of the collector, and of the magistrate, and the committal to the sessions, are invalid; and in consequence the trial, and conviction therein. All are quashed and the prisoners directed to be discharged.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

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Case of RAMPERSAUD MUZOOMDAR and others.

GOVERNMENT AND TARACHURN MUNDUL

versus

KHETOO BAGDEE CHOWKEEDAR (No. 4,) KYLASHNATH SIRCAR (No. 5,) RAMJOY BAGDEE DAGGEE (No. 6,) RAMPERSAUD MUZOOMDAR (No. 7, APPELLANT,) JANKINATH SIRCAR (No. 8, APPELLANT.)

Two prisoners convicted by the sessions judge, one as accessary and the other as privy to a dacoity, acquitted in appeal.

CRIME CHARGED.—Nos. 4, 5 and 6, 1st count, dacoity attended with assault of Tarachurn Mundul and plunder of property valued at Rs. 724-4; 2nd count, knowingly receiving and retaining property acquired by committing the above dacoity; Nos. 7 and 8, 3rd count, accessary before and after the fact of the above dacoity; 4th count, privity to the above dacoity.

CRIME ESTABLISHED.—Nos. 4 and 5, 1st count, dacoity at-

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tended with assault of Tarachurn Mundul and plunder of property valued at Rs. 724-4; Nos. 4, 5 and 6, 2nd count, knowingly receiving and retaining property acquired by committing the above dacoity, No. 7, accessary before and after the fact of the above dacoity, and No. 8, privity to the above dacoity.

Committing Officer.—Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 4th May, 1855.

Remarks by the sessions judge.—This case was tried by me under Act XXIV. of 1843.

On the night of the 9th Cheyte, 1261, or 21st March last, the prosecutor was awoke from his slumbers by his house being attacked by a gang of dacoits, who forced in the outer door, and then bursting open that of the room in which the prosecutor had been sleeping, proceeded to bind him to a post and demand the delivery of his money and property. The prosecutor in consequence of the maltreatment received, and for fear of his life, pointed out where a *lotah*, containing some two hundred rupees, was buried in the corner of the room, which together with rupees one hundred and seventy-five cash and other articles found in a chest in the room which they broke open, the dacoits took, and decamped, with the total value of the property lost amounting to Rs. 724-4. The facts of the dacoity having been committed, the finding of the prosecutor bound with a cloth and in a state of partial insensibility, were duly proved by the evidence of the witnesses for the prosecution.

Before the police and magistrate the prisoners Khetoo Bagdee Chowkeedar No. 4, and Kylashnath Sircar No. 5, made full confessions of their guilt which were duly attested by the subscribing witnesses.

From the above confessions, it appeared that the dacoity had been so previously planned and arranged, that the dacoits should assemble in the afternoon of the day on which it was committed, at the house of the prisoners Rampersaud Muzoomdar, Kylashnath Sircar and Jankinath Sircar, the two latter being brothers and nephews of the former and all three residing on the same premises; several witnesses also deposed to their having seen some people collected at the prisoner's house, but on their repairing thither after the dacoity, they had all decamped, excepting the prisoners Rampersaud Muzoomdar and Jankinath Sircar. Suspicion was therefore raised against the three abovenamed prisoners, and on the darogah proceeding to the spot he met a woman named Mungula Bagdin with a *gilaph*, which she apparently was desirous of concealing, and on questioning her, she disclosed the fact of her relatives Khetoo Bagdee and Ramjoy Bagdee Nos. 4 and 6, having been concerned in the dacoity, and those parties were accordingly apprehended. Prisoner No. 4, immediately confessed his guilt and implicated the rest

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of the prisoners, but more particularly Kylashnath Sircar No. 5, and Ramjoy Bagdee No. 6; the prisoner No. 5, was thereon arrested and also confessed his participation in the dacoity, and in consequence of his implicating the prisoners Rampersaud Muzoomdar No. 7, and Jankinath Sircar No. 8, they were also taken into custody. On the houses of the prisoners being searched a brass *battee* was recovered from that of prisoner No. 4; *a purse and saree* were found in that of prisoner No. 6, and the prisoner No. 5, gave up five rupees, which he confessed to have received on the night of the dacoity as a portion of his share of the plunder: the property found in the houses of the prisoners Nos. 4 and 6, was duly identified as belonging to the prosecutor.

Before this court all the prisoners pleaded *not guilty.*

When called upon for his defence Khetoo Bagdee No. 4, declared he had nothing to urge and refused to examine the witnesses cited by him. On his confessions being read over to him, he acknowledged both to have been recorded by him of his own accord.

Kylashnath Sircar No. 5, denied both his confessions, urging that he was forced to make the first, and of the second he had no recollection, and cited several witnesses to prove his absence from home from the afternoon of the 9th to the morning of the 11th Chyte, but on examination they all denied all knowledge of the prisoner's whereabouts on the days mentioned.

Ramjoy Bagdee No. 6, denied having had any participation in the dacoity and cited witnesses to prove his having slept on the night in question at the house of one Jyemanjhee in Tilpara, the village in which the prosecutor resided, but Jyemanjhee denied that the prisoner slept at his house, and none of his other witnesses could bear testimony in his favor. According to the calendar this prisoner is an old offender, having been convicted of theft, and on the 14th July, 1852, sentenced to six months' imprisonment, and on a previous occasion sentenced to suffer corporal punishment in another case of theft.

Rampersaud Muzoomdar No. 7, pleaded that having no family of his own he had willed all his property to his nephew Jankinath Sirkar, prisoner No. 8, and in consequence of this preference his other nephew Kylashnath Sircar, No. 5, had implicated him in his confession before the darogah, but in reality he had neither knowledge of nor share in the dacoity, and cited witnesses to speak to his having been at home at the time of the occurrence and the existence of ill-feeling between him and his nephew Kylashnath Sircar.

Jankinath Sircar No. 8, also pleaded that his brother Kylashnath Sircar had out of spite and jealousy, in consequence of the preference shewn to him by his uncle, implicated him in his confession before the police, and cited the same witnesses as the

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foregoing prisoner to prove his being at home on the night in question, and the existence of ill-feeling between him and his brother.

The witnesses of these two prisoners were unable to speak to the existence of the ill-feeling pleaded, but had heard of the prisoner Rampersaud Muzoomdar having willed his property to his younger nephew; all the three prisoners however resided together, and on the night in question the two prisoners Rampersaud and Jankinath were at their house, when the villagers assembled and parties came to their house to look for the people seen to be there assembled during the day. This evidence does not exculpate the prisoners from the charges preferred against them, inasmuch as to be accessaries either before and after the fact or to be privy to the dacoity, it was not necessary for them to have quitted their homes, and as the evidence for the prosecution clearly shews all the three prisoners to have resided together and lived as one family, and the fact of the assemblage of people at their house, only a few hours before the occurrence, is proved by the confessions of the prisoners Nos. 4 and 5, by the evidence of witnesses and the production from the house of the basket and mat in which certain of the implements used on the occasion were concealed, I reject the evidence for the defence as totally insufficient to clear the prisoners from the charges.

I therefore convict all the prisoners and sentence them as follows.

Khetoo Bagdee chowkeedar to ten (10) years' imprisonment with labor and irons, Kylashnath Sircar and Ramjoy Bagdee to seven years' imprisonment, Rampersaud Muzoomdar to three (3) years' imprisonment with labor without irons, and Jankinath Sircar to two (2) years' imprisonment with labor without irons, and jointly and severally to pay a fine of Rs. 717-12 under Act XVI. 1850.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoners, Rampersaud and Jankinath, Nos. 7 and 8, have appealed. The first is convicted of being an accessary before and after the fact, and the last of privity. The proof against them consists of the confessions of the other prisoners, and the evidence of a witness deposing to having seen some men assembled in their house on the evening in question. These men, however, are not proved to be any of those implicated in the dacoity, and though the sessions judge might make use of the statements of confessing associates, as corroborative of other independent evidence, it cannot be used directly for the conviction of accused parties. In our opinion, there is no sufficient proof to support this charge, and we therefore acquit the prisoners.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND BAMA CHURN

versus

KRISTO BHOLLA (No. 1, APPELLANT,) KHEERODE CHASSIN (No. 2,) UNOOP BHOLLA (No. 3, APPELLANT.)

Beerbhoom.

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Case of KRISTO BHOLLA and others.

Conviction and sentence passed by the sessions judge in a case of burglary upheld in appeal.

CRIME CHARGED.—1st count, No. 1, accomplice in burglary committed in the shop of Bama Churn Chuckerbutty prosecutor, from whence property to the amount of Rs. 431-15-10, was stolen; 2nd count, Nos. 1, 2 and 3, receiving and possessing portions of the stolen property knowing them to have been acquired by the above burglary; 3rd count, Nos. 2 and 3, accessaries after the fact of the above burglary.

CRIME ESTABLISHED.—1st count, No. 1, accomplice in burglary committed in the shop of Bama Churn Chuckerbutty prosecutor, from whence property to the amount of Rs. 431-15-10 was stolen; 2nd count, Nos. 1 and 2, receiving and possessing portions of the stolen property knowing them to have been acquired by the above burglary; 3rd count, No. 3, accessary after the fact of the above burglary.

Committing Officer.—Mr. H. Rose, officiating magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 19th April, 1855.

Remarks by the sessions judge.—The prosecutor kept a cloth-shop, and on the evening of the 1st Falgoon 1261, or 12th February last, after the business of the day, locked it up and retired to his house, about three *russees* distant for the night. On going there in the morning, he found the padlock of the door had been broken, and his shop plundered of various articles, including silk and cotton cloths to the value of Rs. 431-15-10, information was immediately conveyed to the police thannah Burowa, but for two days no clue could be obtained either of the thieves or property. On the night of the 3rd Falgoon, however, whilst going his rounds Rambishto Chatterjea witness No. 1, burkundaz of thannah Labpore, overheard a conversation between two travellers to the effect that a theft of 500 Rupees worth of property had been committed in the village Panchtofee, where the prosecutor resided; next morning he met a resident of that place and desired him to inform the darogah of Burowa, of what he had heard, in the event of his being at Panchtofee, and to send a list of the stolen property, and that he would remain on the look out for further information, on reaching

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mouzah Jardoh, on his way to his *pharee* at Nowgong, the burkundaz came suddenly on the prisoner Kristo Bholla No. 1, the husband of Kherode Chassin prisoner No. 2, and two other men seated near the road side and disputing apparently about some cloths. On seeing him approach they decamped, next day he returned to the village Jardoh, and overheard a conversation between the prisoner No. 1 and his wife which led him to conclude the property was concealed in their house; information was immediately conveyed to the mohurrir of thannah Burowa, who was in a neighbouring village, and next morning measures were taken for searching the houses of the prisoners, before, however, a guard could be placed over that of the prisoner No. 2, one of the mohurrir's bearers, Bheekoo Bagdee witness No. 2, gave notice of a woman having just emerged from the house and run away with a large sack full of something: chase was immediately given and the prisoner No. 2 apprehended among some bushes with a sack-full of cloths, tied up in two bundles, being in all 19 pieces marked 1 to 19. On further search four other pieces, marked 20 to 23, were found in her house; prisoner No. 1, also produced 28 pieces, marked 24 to 51, and in the house occupied by prisoner No. 3, the father of prisoner No. 1, residing together, two other articles, marked 52 and 53, were discovered, all of which the prosecutor claimed as a portion of the property stolen from his shop, and the witnesses examined at the trial (Sreenath Haldar No. 19, Sreeram Haldar No. 20, and Kooraram Mundul No. 21,) fully identified.

Before the police and magistrate the prisoners Nos. 1 and 2, made a full confession of their guilt, the first to the effect that he had formed one of the party on the occasion of the theft, and the other that she had received the articles found in her house from the prisoner No. 1, and these confessions were fully attested by the witnesses Nos. 6 and 7, Mohut Mundul and Bonomalee Gope Mundul, and Nos. 11, 12, and 13, Ram Soonder Dey, Ram Rooj and Rajoo Dass.

Before this court the prisoner No. 1, pleaded that he knew nothing of the theft, that Nepal Singh (not arrested) brought the property to his house at 12 o'clock in the day and left it, and cited witnesses to prove the same, he denied in toto his confessions before the police and magistrate and when called upon to explain why he had not named his witnesses for his defence in the magistrate's court, declared he did not understand he was required to do so.

Prisoner No. 2, acknowledged her confessions before the police and magistrate, but pleaded that the property had been put in her house by the prisoners Nos. 1 and 3, and cited witnesses to prove her respectability.

Prisoner No. 3, urged that being a police officer it was impossible for him to have had any share in the theft of which

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he knew nothing, that he is a respectable man and lives separate from his son prisoner No. 1, with whom he has no concern, and cited witnesses to prove that he was engaged in going his rounds on the night in question.

None of the witnesses cited for the defence were able to bear testimony in favor of the prisoners, and though prisoner No. 3, had cited nine witnesses, he refused to examine more than three.

The jury returned a verdict of guilty against all the prisoners.

In the verdict of the jury I fully concur, the prisoners Nos. 1 and 2, being clearly convicted of the charges laid against them on their own confessions before the police and magistrate, and the recovery of the property from their houses. Prisoner No. 3, from the circumstances of his living in the same house with his son prisoner No. 1, and property being found in his house and the confession of prisoner No. 2, shewing him to have given a portion of the property to her, is also convicted on the 3rd charge in the indictment, I therefore sentence the prisoner No. 1, to seven (7) years' imprisonment with labor and irons, prisoner No. 3, being a chowkeedar, to five (5) years' imprisonment with labor and irons, and prisoner No. 2 to two (2) years' imprisonment with labor suited to her sex, and jointly to pay a fine of rupees 337-2-3, under Act XVI. of 1850.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to doubt the propriety of the conviction in this case, and therefore reject this appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

Chittagong.

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Case of HOSSEIN ALI.

The prisoner was convicted of forging a receipt for Vakeels' fees and sentenced to five years' imprisonment.

Appeal rejected.

GOVERNMENT

versus

HOSSEIN ALI.

CRIME CHARGED.—1st count, forgery, viz. in having with intent to defraud witnesses Nos. 1 and 2, and Borhanuddin deceased, forged or caused to be forged a receipt for rupees 215-6-4½, dated 12th Pous 1210, M. S. and thereupon fraudulently affixed or caused to be affixed the names of witness No. 2, and Borhanuddin vakeel; 2nd count, with having knowingly caused the forged receipt to be uttered in the sudder moonsiff's court, and filed by the witnesses Nos. 8 and 9, as a genuine document; 3rd count, with having with intent to defraud witnesses Nos. 1 and 2, fraudulently prepared or caused to be prepared a false document as a receipt for rupees 215-6-4½, purporting to be signed by witness No. 2, and Borhanuddin deceased; 4th count, causing the false document to be uttered in the sudder moonsiff's court.

CRIME ESTABLISHED.—1st count, forgery, viz. in having with intent to defraud witnesses Nos. 1 and 2, and Borhanuddin deceased, forged or caused to be forged a receipt for rupees 215-6-4½, dated 12th Pous 1210, M. S. and thereupon fraudulently affixed or caused to be affixed the names of witnesses No. 2, and Borhanuddin vakeel deceased; 2nd count, with having knowingly caused the forged receipt to be uttered in the sudder moonsiff's court and filed by witnesses Nos. 8 and 9, as a genuine document.

Committing Officer.—Mr. J. R. Muspratt, magistrate of Chittagong.

Tried before Mr. R. H. Russell, officiating additional sessions judge of Chittagong, on the 24th April, 1855.

Remarks by the officiating additional sessions judge.—Hossein Ali prisoner No. 4, was defendant in a civil suit in the principal sudder ameen's court in which he employed as his vakeel Hadie Ali and Borhanuddin (deceased.) The case was decided on the 5th July, 1850, corresponding to the 22nd Asarh 1212, M. S. the court awarding only half fees amounting to Company's Rupees 215-6-4½; subsequently Hyder Ali witness No. 1, purchased the amount of fees awarded, from the vakeels, but being unable to recover them, from Hossein Ali, instituted a suit against him in the moonsiff's court. In this suit, Hossein Ali pleaded previous payment, and filed a receipt dated 12th Pous 1210, M. S. purporting to be an acquittance from Hadie

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Ali and Borhanuddin vakeels for the amounts of the fees claimable by them according to Rs. 215-6-4½, on consideration of the payment in cash of Company's Rupees fifty-five: the moonsiff deeming the receipt to be a forgery, gave a decree in the civil suit for the amount of fees claimed, and committed the prisoner to the criminal court on a charge of forgery. The magistrate remarking that the receipt purports to have been written one year and seven months before the date of the decree, at which time it could not be known that only half the proper amount of fees would be awarded, that he therefore considered it a gross forgery, and that the evidence adduced was full and complete, committed the prisoners to the sessions.

In consequence of the law officer being the party by whom the case was made over to the magistrate, I requested the principal sudder ameen, Moulvee Ashruff Ali and the sudder ameen Moulvee Ameerooddeen Mahomed, to sit with me as jurors; I have this day gone through the case with them.

The filing of the receipt in the moonsiff's court on the part of Hossein Ali is fully established, and the witnesses to the receipt as well as the surviving vakeel whose it purports to be, ignore it altogether; the defendant pleaded *not guilty*, and as nothing had been adduced tending in the slightest degree to establish any thing against Abool Hossein prisoner No. 5, no further defence was required from him. Hossein Ali's witnesses were examined but failed to prove any thing in his favor, the jurors while deeming the actual forgery not to be proved, were of opinion that the deed was a forgery.

In my opinion there cannot be a doubt that the receipt is a forgery, and was filed with a fraudulent intent, no one but the prisoner No. 4, Hossein Ali, could benefit by the forgery, the presumption therefore that he was the party who caused it to be prepared, amounts almost to certainty. That he caused it to be uttered is fully established by the evidence, and that he must have known it to be a forgery, cannot admit of a doubt.

I therefore convict Hossein Ali prisoner No. 4, on the 1st and 2nd count, and in consideration of the prevalence of the crime of forgery in the district, sentence him to imprisonment for five years with hard labor.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to interfere with this conviction, and therefore reject the appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

CHEEDAM GOORAITH.

Midnapore.

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Case of CHEEDAM GOORAITH.

Prisoner convicted of having belonged to a gang of dacoits sentenced to transportation for life.

CRIME CHARGED.—Being a dacoit by profession and having belonged to a gang of dacoits.

Committing Officer.—Mr. C. H. Keighly, assistant general superintendant and assistant dacoity commissioner, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore on the 16th June, 1855.

Remarks by the sessions judge.—The prisoner confessed before the assistant to the dacoity commissioner to having been concerned in several gang-robberies, and this confession he here declares to have been voluntarily made, and that the facts it discloses, are true.

The confession is corroborated by the records* of two cases noted in the margin, and by a trial held in this court in August, 1853, when the prisoner was sentenced on a charge of dacoity to nine years' imprisonment with labor in irons, which sentence was affirmed in appeal by the Nizamut Adawlut in November, 1853.

* No. —— case of dacoity in the house of Bindabun Ghose.
No. 533. case of dacoity in the house of Sonatun Potdar.

Seeing no reason to doubt either the truth of the prisoner's confession or his guilt, I convict him of the charge on which he is arraigned, and recommend that he be sentenced to imprisonment for life in transportation beyond seas.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) Seeing no reason to doubt the truth of this confession, we convict the prisoner of the crime charged; and sentence him to imprisonment for life, in transportation beyond seas.

PRESENT:

SIR R. BARLOW, BART. AND H. T. RAIKES, ESQ., *Judges.*

Jessore.

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Case of
GOPAUL FUKIR and others.

The prisoners were convicted of dacoity and sentenced by the sessions judge to seven years' imprisonment.

In appeal, the sentence of two was upheld, and the others were acquitted.

GOVERNMENT AND HAFIZ SIRDAR

versus

GOPAUL FUKIR (No. 11,) KOMUR ALI FUKIR (No. 12,) CHAMARI GAZEE (No. 13,) BAGOO KARIGUR (No. 14,) ELAM GAZEE (No. 15,) RAJOO KAHAR (No. 16, NON-APPELLANT.)

CRIME CHARGED.—1st count, dacoity in the house of the prosecutor, Hafiz Sirdar, and plundering therefrom property to the value of Rs. 139-10-9, on the night of the 10th of February, 1855, corresponding with 29th Magh, 1261, B. S.; 2nd count, prisoner No. 11, knowingly having in his possession a portion of the plundered property.

CRIME ESTABLISHED.—Dacoity.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. R. M. Skinner, sessions judge of Jessore, on the 1st May, 1855.

Remarks by the sessions judge.—From the evidence* for the prosecution, it is clear that a dacoity occurred on the night of the 10th February, the plaintiff recognised prisoners, Nos. 11 to 15, and the chowkeedar, witness No. 7, reported the same to the darogah the following day.

The darogah took the deposition of plaintiff and of witnesses, Nos. 1 to 4. These witnesses corroborated the plaintiff's statement and added the name of prisoner, No. 16.

On search being made on the premises of the above and other accused prisoners, a *lotah* (i. q. lot 6 of plaintiff's inventory) was found† in a box in the house of prisoner, No. 11, and identified‡ as belonging to plaintiff. Prisoner, No. 16, on being apprehended, confessed§ and implicated the other persons under trial. He repeated his confession|| before the Kazee (the magistrate being away from the station).

* Witness No. 1, Suroop Sirdar.
2, Elam Mundul.
3, Bishoo Mundul.
4, Ikram Oollah.
5, Zomir Sheikh.
6, Phedoo Sirdar.
7, Jahed Chowkeedar.

† Witness No. 8, Sona Oollah.
" " 9, Esabdi Gazee.

‡ Witnesses Nos. 1, 3 and 4.

§ Witness No. 4.

|| Witness No. 14, Shuriat Oollah.
" " 15, Kazem Ali.

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Case of GOPAUL FUKIR and others.

Prisoner, No. 15, was before* imprisoned for dacoity for seven years.

Prisoner, No. 12, was convicted† of theft.

Prisoner, No. 11, has not proved the property (*lotah*) to be his.

* Witness No. 1,
" " 18, Judronath.
" " 19, Allum.
" " 20, Jussim.

† Witness No. 1,
" " 18,

Several witnesses, some relatives of different prisoners, have given evidence to character.

The manner of the witnesses generally for the defence was constrained and hesitating, as if afraid of offending the prisoners.

I convict the prisoners of dacoity, and sentence each of them to seven years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner, No. 15, was once before sentenced to seven years in a case of dacoity. He was recognized by witnesses, but pleads *not guilty*. His witnesses say nothing in his favor. We confirm the sessions judge's sentence on him. No. 16, confessed before police and the magistrate, and has not appealed, we therefore see no reason to interfere in his case.

The other prisoners, Nos. 11, 12, 13 and 14, are implicated by the eye-witnesses. No property, however, was found on them, except a brass *lotah*. They produce several witnesses, who speak to their respectability, and allege they are men in good circumstances, with ample means to support their families. We are not satisfied with bare recognition of them. They are acquitted.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BHOOBUN
versus
CHUNDOO.

Patna.

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Case of CHUNDOO.

The prisoner was convicted of accessaryship after the fact to the theft of a child, but was acquitted in appeal owing to the insufficiency of the evidence.

CRIME CHARGED.—1st count, theft of a girl named Musst. Imamun, daughter of Bhoobun; 2nd count, accessaryship after the fact to the theft of the said Musst. Imamun by disposing of her to Musst. Bunee Begum; 3rd count, sale of the said Musst. Imamun to Musst. Bunee Begum.

CRIME ESTABLISHED.—Accessaryship after the fact to the theft of the said Musst. Imamun by disposing of her to Musst. Bunee Begum.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. F. Lowth, officiating sessions judge of Patna, on the 15th March, 1855.

Remarks by the officiating sessions judge.—About seven years ago, the prosecutor lost his child, a girl about four years old by name "Misrun," a man by name "Jumeerooddeen" was apprehended and on his confession convicted and sentenced on the 2nd August, 1848, by Mr. Commissioner Gough to seven years' imprisonment with labor and irons: the child, however, was not recovered: in the month of December last, the prosecutor ascertained from one Musst. Umeerun that his child was residing in the house of Musst. Bunee Begum at Hajeepore in zillah Tirhoot and on his repairing there, he saw his daughter and claimed her, the above named lady, however, declared the girl to have been given to her by the prisoner when only six months old to bring up, and refused to restore her to the prosecutor, the prisoner accordingly was sent for and on his attending at the house, the girl was made over to him and with the prosecutor and prisoner sent by boat to Patna; the prisoner declared the girl to be his child and Imamun to be her name, the prosecutor on the other hand claimed the girl as his lost child and stated her name to be "Misrun."

The girl now apparently about eleven years of age was produced in court and examined, but was ignorant of the nature of an oath; she however stated that for six years she recollected being an inmate of the Begum's house, and was called Imamun and understood her father's name to be Chundoo, from the day of her entering the Begum's house, to that of her leaving it with him and the prosecutor, she had never seen her reputed father, and though her mistress used to visit Patna occasionally she was never brought from Hajeepore, nor allowed to quit the

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house. By the evidence of the witnesses (Nos. 1, 2 and 3, "Sadoolla, Gholam Hossen," and "Musst. Biffia" the latter of whom was in attendance at her birth in the capacity of midwife, the girl is clearly proved to be the prosecutor's child, and the same that had been lost in July, 1848. "Musst. Umeerun," a witness summoned by this court, also proved the girl to have been always kept inside of the house, and never allowed to appear outside, and when she first saw her about three years ago the child was about nine years of age, how the girl came into the Begum's family, however, she knew not, though she was then in that lady's service, nor did she make any enquiries as to her parentage, &c. On the prosecutor mentioning to her that he had lost his child and could not discover her, she informed him of a little girl being in the Begum's house but whether his or not she was ignorant, the prosecutor however on seeing the girl recognised her and claimed her as his lost child. Three other witnesses proved the prisoner to have had only one daughter, married to a resident of Assanuggur when he, (the prisoner) left the Koornawan, his former place of residence, some fifteen years ago.

The prisoner in his defence pleaded that the child was his own, and about thirteen or fourteen years ago when only six months old, he had given her to the Begum (of one Meer Abdool Allee since deceased) to bring up; he further declared her to be one of four children born to him in Koornawan and cited two witnesses to prove the same, but they denied all knowledge of the prisoner and consequently of his family; the prisoner having named one Gholam Hossein Chowkeedar as being present when the child was given to the Begum, he was immediately summoned by the court, to allow the prisoner every opportunity of establishing his innocence, but his evidence proved utterly worthless; the prisoner described the child as six months old when given away by himself to the Begum, this witness declared her to have been one and half year old to have been given by a woman whom he did not know or recognise as the wife of the prisoner, and that the prisoner himself was not present on the occasion.

The *futwa* of the law officer convicts the prisoner on the 1st and 2nd counts of the charge on violent presumption. I concur in this verdict on the 2nd count, there is no proof whatever in the record of the prisoner having stolen the child and consequently he cannot be convicted on the 1st count, further the actual thief was punished for *that* offence in 1848, and there is no proof of the prisoner being an accomplice in the theft, that he was an accessary after the fact to the extent described in the 2nd count of the indictment there is no doubt, the evidence being clear and conclusive and fully establishing his guilt. I therefore sentence the prisoner to five (5) years' imprisonment with labor and irons.

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Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We have no hesitation in rejecting the evidence of the identifying witnesses, as far too improbable for belief.

Prosecutor states, his child was lost when four years of age, and after the lapse of seven years, he brings two men to swear to the child before the court as being his child, who recognise it by a burn on the posteriors. It is a singular circumstance, however, that neither the prosecutor himself, nor the woman who was present at the child's birth and knew it for three or four years afterwards, at any stage of these proceedings mention this peculiar distinctive mark. The witnesses do not hesitate to swear to the child's identity; there is nothing to support their evidence, on this point or in any way to connect the prisoner with the man Zumeerooddeen, who was in 1848, convicted on his own confessions throughout the trials, of stealing the prosecutor's child. Had Zumeerooddeen then acted in concert with the prisoner, it is most probable that he would have named him when first apprehended. But he implicated his uncle Shumsheer Khan, only, who denied all knowledge of the crime. We acquit the prisoner, the child must be restored to the Begum from whose charge she was taken.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

Tenasserim Provinces.

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Case of NGA THARA and another.

GOVERNMENT.

versus

NGA THARA (No. 1,) NGA SHWAY OO (No. 2.)

CRIME CHARGED.—Cattle-stealing with murder.

Committing Officer.—Captain R. S. Tickell, deputy commissioner and magistrate of Amherst, Tenasserim Provinces.

Tried before Lieut.-Col. Sir A. Bogle, Kt., commissioner of the Tenasserim and Martaban Provinces, on the 31st May, 1855.

Prisoners convicted of being accomplices in murder, with robbery of an elephant and sentenced, under the circumstances, to transportation for life.

Remarks by the commissioner.—It appears that in the month of November last, the prisoners Nga Thara and Nga Shway Oo, engaged a Shan or Siamese elephant-keeper or owner, to take them from where they then were, apparently within the Siamese territory, to Kankarut, a village within province Amherst, and that as they went along they picked up a fourth person, a young Shan or Siamese, who was going the same way, and was glad to avail himself of the opportunity, the country being wild and inhospitable, and that while they were journeying along, the two

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prisoners and the young man, whom they had taken upon the road, consulted together and bound themselves by an oath to kill the elephant-keeper Nga Potee and to rob him of his elephant and whatever else he possessed, and that they accordingly availed themselves of the first convenient opportunity which presented itself: that is on the 3rd day of their journey, when they were within the British territory to carry this design into execution. The first prisoner Nga Thara striking deceased off the elephant with the blow of a *dah*, and the second Nga Shway Oo dispatching him when on the ground and then rolling him over the precipitous hill side.

Very soon afterwards the young Shan named Nga Thamana or Nwe Thommana succeeded in escaping from the other two, and having arrived at the village of Namloong informed the people of the murder, and was taken to the *Moothoogyee* or head police officer of the Thonugyeen district (British) who immediately made every enquiry but could not discover the dead body, as it had been thrown down a steep place, but some bloody cloth was found and soon after the prisoners were apprehended, when they fully confessed, as indeed they did before the district magistrate, and before the sessions court also.

It is much to be regretted that Nga Thommana the only eye-witness to the murder, and who may have been an accomplice, could not be brought before the sessions court. He is reported by the district magistrate vide annexed copy of letter to my address No. 85,* dated 9th instant to have become insane and fled into the jungles. Had he been brought before me he would no doubt have given testimony equally as distinct as that which he gave before the magistrate; but even without this

* No. 85.

To Lieut.-Col. Sir A. Bogle, Kt., commissioner, Tenasserim and Martaban Provinces.

SIR,—With reference to my letter No. 28, of 1st March, 1855, to your address, I have the honor to inform you that the witnesses in the case* have this day arrived with the exception of Nga Thooman, Nga Ouk pan and Sawkai Kinly Ke. The former is reported to have become insane and to have run away into the jungles. The two latter came without the others, and at their request were allowed to go back to return with the rest but have not since done so.

* Government *versus* Nga Thara and Nga Shway Oo, cattle-stealing with murder.

It is most difficult to collect these wild people from such remote parts and enforce their attendance by any means short of placing them in custody, and as cholera is still prevalent in the town, I would strongly advise the examinations of those present to be taken at once, while I am endeavouring to secure the attendance of the remainder.

I have, &c.
(Signed) S. R. TICKELL,
Deputy Commissioner.

District Magistracy, the 9th May, 1855.

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very important witness the evidence recorded, and which is very consistent, coupled with the confessions of the prisoners leaves no room in my opinion for any doubt as to their guilt.

The jury found a verdict of guilty of cattle-stealing with murder against both the prisoners, and having concurred in the same I felt it to be my duty to record my opinion that they ought to suffer capital punishment. The case is one, devoid of any extenuating circumstance, and in submitting it for the consideration and orders of the Sudder Nizamut, I am unable to suggest any grounds for mercy.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The only eye-witness in the case, who first gave intimation regarding the murder, was not forthcoming at the trial. And there is nothing on record to show his age, his mode of livelihood or his character; and there is evidence on record that he told two different tales when he first made his appearance among his acquaintances, after the murder. He first spoke of his party having been attacked by dacoits, as the cause of his return, and then divulged the murder of the deceased by the two prisoners, Nos. 1 and 2. His testimony therefore before the police, and the magistrate cannot be relied upon as to every particular circumstance. It has, however, been corroborated in the main features by the confessions of both prisoners in the mofussil, before the magistrate, and at the sessions; and also by the fact of the sale of an elephant by the two prisoners immediately after the alleged murder. The Court here observe, that they have cause to regret that no questions were put to the witnesses for the prosecution, which would have led to a satisfactory identification of the elephant sold, with that of the deceased; as one at least of the witnesses was well acquainted with the deceased and his elephant. The evidence therefore on which the Court must rely, are the confessions of the prisoners. Prisoner No. 1, admits that he commenced the attack, and struck the first blow; but at the instigation of prisoner No. 2, and the eye-witness, who both struck and killed deceased. Prisoner No. 2, declares throughout, that prisoner No. 1, alone murdered the deceased, by a blow, cutting him down; and then he himself and the eye-witness rolled the body over the precipice. The body was never found, and no inquest *could consequently* be held to ascertain whether there was only one wound, or more inflicted. The evidence therefore of the amount of guilt of the prisoners, respectively, being inconclusive, the Court convict them, under all the circumstances of the case, of being accomplices in the murder of Potee for the sake of his elephant, and sentence them both to imprisonment for life in transportation.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

Bhaugulpore. 1855.

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Case of NUSEEB MANJEE and others.

Conviction and sentence passed by the sessions judge in a charge of burglary upheld in appeal.

GOVERNMENT AND TUPSHEE SHAH

versus

NUSEEB MANJEE (No. 1,) GOPEE ALIAS MOSAFUR DURHA (No. 2,) PERTAPEE KOOMAR (No. 3.) SHAM THANDAR (No. 4,) AND ISSREE ALIAS MISSREE SINGH (No. 5.)

CRIME CHARGED.—Prisoners Nos. 1 to 4, 1st count, burglary in the shop of the prosecutor, Tupshee Shah, and stealing therefrom in cash and goods, property to the value of Rs. 691-14-3; 2nd count, prisoner Nos. 1 to 5, having in their possession property, knowing it to have been acquired by the above theft.

CRIME ESTABLISHED.—Prisoners Nos. 1 to 4, burglary in the shop of the prosecutor, Tupshee Shah, and stealing therefrom cash and goods, property to the value of Rs. 691-14-3; prisoner No. 5, having in his possession property knowing it to have been acquired by burglary and theft.

Committing Officer.—Baboo Koomar Harendra Kishna, deputy magistrate of Deoghur.

Tried before Mr. W. Bell, officiating sessions judge of Bhaugulpore, on the 26th February, 1855.

Remarks by the officiating sessions judge.—This case of burglary occurred at Dhurumpore in the jurisdiction of thannah Lucker Dewannee in the Deoghur division, on the night of the 24th October, 1854. From the statement of the prosecutor, Tupshee Shah, a merchant, and the witnesses (Nos. 2 and 17,) it is shown that on the night in question his house was burglariously entered and much property stolen therefrom, valued at nearly seven hundred Rupees. There had been a nautch at the house on the night and all the people assembled, and after their dispersion, he locked up the house, and the following morning discovered his loss and the hole cut in the wall. He had no suspicions of any one in particular, but sent his servant to lodge his complaint at the thannah, and an investigation took place. Shortly after at the *haut*, he recognized some of his cloth upon a person, whom he did not know, he therefore made enquiries, and found him to be the prisoner, Mosafur (No. 2,) with whom all the other prisoners were at the time, he therefore caused all their houses to be searched, and property was found and produced by them to the value of some Rs. 308-5-1. Prisoners, Nos. 1, 2, 3 and 4, confessed both at the thannah and before the deputy magistrate, No. 5 throughout pleading *not guilty*. Before the sessions court, all plead *not guilty*. The fact

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of finding the property in the houses of the prisoners and being produced by them is established by witnesses Nos. 3, 4, 5, 6, 7, 10, 11, 12, 13 and 14, and is recognized as the prosecutor's property by him and witnesses Nos. 2, 17 and 16.

In their defence, the prisoners repudiate their confessions, and declare the property was placed there by some one. They have summoned no witnesses in their favor.

The jury return a verdict of guilty of the crime charged against prisoners, Nos. 1 to 5, in which I concur, and considering from their confessions this a planned burglary, in which a number of men were concerned, I think a severe punishment necessary, and award seven years' imprisonment with labor and irons to prisoners Nos. 1, 2, 3 and 4, and five years with labor and irons to prisoner No. 5.

The prisoners were three days in the thannah. The magistrate's attention has been drawn to the circumstance.

Goopee *alias* Mosafur was formerly imprisoned for six months in a case of theft, and Pertapee Koomar has been imprisoned for theft of a *kutora* for one month.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We see no reason to interfere with this conviction, or with the sentences passed on the prisoners.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

Dacca. 1855. July 9. Case of SHEIKH ROSUN and others.

GOVERNMENT AND KALICHUNDRO

versus

SHEIKH ROSUN (No. 11,) SHEIKH JAGIR MAHOMED (No. 12,) SHEIKH DOOLIE KUTWAL (No. 13,) SHEIKH MOSAD (No. 14,) AND SHEIKH OSMAN (No. 15.)

The prisoners were convicted of receiving property obtained by dacoity, but were acquitted in appeal, the witnesses having sworn to too much.

CRIME CHARGED.—1st count, dacoity in the boat of the prosecutor and plundering property therefrom to the amount of Rs. 88-14, they being notorious bad characters; 2nd count, receiving property knowing such at the time to have been obtained by dacoity, they being notorious bad characters.

CRIME ESTABLISHED.—Receiving property knowing it to have been obtained by dacoity.

Committing Officer.—Mr. T. Tweedie, deputy magistrate of Moonsheegunge, Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 20th April, 1855.

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Case of SHEIKH ROSUN and others.

Remarks by the sessions judge.—The prosecutor was on his way home accompanied by his family in a boat, and at about ten at night, was attacked by dacoits and the boat plundered. The prosecutor escaped, and the alarm being given, Cherag Ali (witness No. 17,) who arrived on the spot, recognised by their voices, Sheikh Jagir Mahomed (prisoner No. 12,) and one Arzanoollah (not on his trial.) These persons being reputed *lattyals*, and associates of the other prisoners, the houses of all were searched, and part of the plundered property found.

The prisoners pleaded *not guilty* throughout, and called witnesses, who generally declared themselves ignorant of what they were called on to depose to. The prisoners being *Ferazees*, followers of Dudu Meah, and their witnesses of the same persuasion, no reliance could be placed on the evidence that was given for them.

Sheikh Jagir Mahomed (prisoner No. 12,) declared the property found on his wife to be his own. There is otherwise no proof that he was in possession of it.

The dacoity was committed within hearing of a police *pharee*, and the misconduct of the mohurrir appears to have been so gross that he might, perhaps, have been convicted as an accessary. He has been dismissed by the deputy magistrate.

Sentence passed by the lower court.—Each to be imprisoned with labor and irons for ten (10) years in banishment.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The only evidence against the prisoners is the alleged production of plundered property from their houses. The list, filed by the prosecutor, does not, except in one article, correspond with those taken from the prisoners, witnesses nevertheless depose to the *whole* of the property Nos. 1 to 11, as belonging to prosecutor. A piece of red broad cloth and a broken *kharoo* were found buried at the foot of a tree, at a distance from the house of prisoners Nos. 14 and 15, such a finding cannot be sufficient for conviction.

The witnesses have all sworn so freely and unreservedly to the property, notwithstanding the discrepancy above referred to, that their evidence can carry no weight with it. We acquit the prisoners.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND SRIMOTTEE SHAKMA BEBEE
versus
SUFFER ALI.

Chittagong.

1855.

July 9.

Case of SUFFER ALI.

The prisoner was convicted of the wilful murder of his father-in-law, but was sentenced to transportation for life owing to the absence of premeditation in the act.

CRIME CHARGED.—Wilful murder of his father-in-law, Oomed Ali, on 8th April, 1855, or 27th Choit, 1261, B. S.

Committing Officer.—Mr. J. R. Muspratt, magistrate of Chittagong.

Tried before Mr. R. H. Russell, officiating additional sessions judge of Chittagong, on the 9th May, 1855.

Remarks by the officiating additional sessions judge.—The facts of the case, as appears from the evidence adduced, are as follows.

It appears from the evidence, that the wife of the prisoner, having been ill-treated by her husband, took refuge with her father, Oomed Ali, deceased. This gave rise to ill-will between the parties, and the prisoner by way of revenging himself, broke down the fence, surrounding deceased's pepper-garden, and began destroying the plants.

The prosecutrix, her son and daughter, witnesses Nos. 1 and 2, state that they went out to remonstrate with him, when he, with a club he had brought with him, struck deceased a blow on the right arm, which felled him to the ground, he then cast away the club, and sitting upon his breast, struck him several times about the head with a *dao*, till they snatched it from him.

Deceased was sent into the station on the following morning, but arrived in a senseless state, and expired before he reached the hospital.

If these statements be taken to shew the whole truth, the case is clearly one of murder, without any extenuating circumstances; but the remaining witnesses give a somewhat different version, they state that the prisoner came and broke the fence, when deceased, with his wife, son and daughter, came out to stop him, he retreated to his house and shut the door, while they remained without, beating at it with *lattees*, presently the prisoner came out with a club, with which he aimed a blow at deceased, which fell short; deceased and the others fell back, but on his coming after them, he and deceased had a struggle and fell together in the pepper field, deceased got up, and was going away when the prisoner struck him a blow with the club on his right arm, when he fell again, the witnesses profess to have seen nothing further in the confusion which ensued, but after-

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wards saw that deceased had received several blows on the head, which they thought, as he stated, might have been inflicted with the *dao* (which they had observed the prisoner, had.)

The civil assistant surgeon, who examined the body, deposed that he found both bones of the right forearm broken, and a contused wound on top of the head with various bruises about the side of the head and face. The brain itself was much bruised, and the lower part lacerated and the membranes were extensively inflamed. He had no doubt that death was the result of these injuries, and was of opinion that they might have been produced by the weapons shewn him.

The prisoner pleaded *not guilty*, but stated that his wife, having left his house, and gone to her father's, he had gone to reclaim her, when the prisoner, his son, wife and daughter, beat him. He was going to the thannah to complain, when they tried to seize him, and he, to escape them, rushed into his house, and fastened the door; this, they lifted up with *lattees* and threw down, and then beat him again, he trying to escape, fell, and cannot say how deceased was wounded. He admitted that the club and *dao* were brought from his house, but denied that he had used them against the deceased.

Two of his witnesses state that they saw him and deceased fighting in the pepper-field, and that he had a wound on his head, but admit that the deceased had four or five wounds on the head and that his right arm was broken. The rest of his witnesses prove nothing in his favor.

The club is a heavy piece of wood, apparently the trunk of a small tree about four feet and a quarter long, and six or seven inches in girth. The *dao* is of the common form, without a handle and not very sharp.

The law officer convicts the prisoner of culpable homicide, rejecting the evidence of the son and daughter, as to the use of the *dao*.

The evidence does not appear to me, however, to be deserving of rejection, there may have been some concealment of what went before the actual assault, but their evidence gives the only explanation of the injuries observed on the head, which were the undoubted cause of death, and which the evidence of the other witnesses leaves wholly unaccounted for; they gave their evidence in a straightforward manner, without any manifest attempt at exaggeration; it is admitted they were with the deceased, when he fell, and had therefore a better opportunity of seeing what occurred than those further off. They might themselves have obstructed the view of the others, who, if the plants were high, as they are said by one witness to have been, might not have been able to see clearly what took place on the ground; it is not improbable, however, that some of the other

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witnesses may have kept back a portion of what they witnessed, in order to save the prisoner from the full consequences of his deed.

It does not appear to me to be very improbable that the prisoner, in the excitement of the moment, should have thrown aside the heavy and cumbrous club, and attacked deceased, as he is stated to have done, with the *dao*. A few rapid blows given with the back, or flat side of the *dao*, would, in my opinion, have very probably given rise to the appearance observed. They would take but a few seconds. The club could not have been wielded with any effect, except with both hands, and I cannot but think that a blow inflicted with such a weapon, while the deceased was on the ground, would have more probably crushed the skull than cause the bruises found. Blows thus given too, must have been seen by all the bystanders.

That the prisoner had a *dao* is proved; the deceased attributed the wounds on his head to this instrument, and the witnesses all admit that they considered the injuries observed might have been caused by it.

Deceased was unfortunately senseless, when he arrived, so that his dying deposition could not be taken and the magistrate has not adduced, as evidence, his deposition taken by the darogah, before he was sent in, so that it could not be admitted.

All the evidence goes to prove that the prisoner was the aggressor, and that the fatal assault took place when the deceased was retreating towards his own home.

Whatever may have gone before, I cannot deem the prisoner guilty upon the evidence given before me of any crime short of murder, though of murder perpetrated in the heat of passion, and probably not premeditated.

I would give him the benefit of the doubt, however, which the evidence seems to have raised in the mind of the law officer, and convicting of murder without premeditation, recommend that he be sentenced to imprisonment for life in transportation.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner was no doubt the aggressor in the assault: He was, however, driven away and retired into his house, and the matter might have been settled thus; but that the deceased, his son and others, followed the prisoner, and began to beat the door of his house, which was closed. Upon this, prisoner again came out: a struggle took place between him and the deceased, and no doubt he met his death at the prisoner's hands. There is, however, this to be said in his favor that the prisoner was himself much excited, and in the heat of passion, committed the deed with which he is charged. We convict him of murder of his father-in-law.

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The sessions judge is of opinion that, under the circumstances narrated in his letter of reference, a sentence of imprisonment for life in transportation will satisfy the ends of justice. We concur in that opinion, and sentence the prisoner accordingly.

PRESENT:

A. DICK, ESQ., *Judge.*

GOVERNMENT AND BHOLANATH CHUNDER

versus

PEARDI ALIAS MEHUR SIRDAR (No. 2,) SONAOOLLAH (No. 3,) AND MUSST. ROOPEE (No. 4.)

Jessore.

1855.

July 10.

Case of PEARDI *alias* MEHUR SIRDAR and others.

One prisoner was convicted of embezzlement and theft of money entrusted to him by his master, and the two other prisoners were convicted of receiving the stolen property. Appeal rejected.

CRIME CHARGED.—Prisoner No. 2; 1st count, embezzlement, in having fraudulently made away with the sum of Co.'s Rs. 975, entrusted to his charge by Bawul Chunder Shaha, by reason of his employment as a servant of the prosecutor on the 14th February, 1855, corresponding with 3rd of Phalgoon, 1261, B. S.; 2nd count, theft of the above sum of money on the 14th February, 1855, corresponding with 3rd Phalgoon, 1261, B. S.; prisoners Nos. 3 and 4, 3rd count, knowingly receiving and having in their possession a portion of the above mentioned stolen property.

CRIME ESTABLISHED.—Prisoner No. 2, embezzlement and theft. Prisoners Nos. 3 and 4, knowingly receiving and having in their possession stolen property.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. R. M. Skinner, sessions judge of Jessore, on the 19th April, 1855.

Remarks by the sessions judge.—From the confession of prisoner No. 2, before the magistrate* and in mofussil, and from evidence for the prosecution, it is proved that prisoner No. 2, received a *hoondee*† from witness No. 1, and received the amount‡ of it, as well as the balance of a previous *hoondee*, minus *batta*, in all 975 Rs. on account of his employer§ (the plaintiff) which amount, on 14th February, he embezzled. He and his wife, prisoner No. 4, and his brother-in-law, prisoner No. 3, deserted|| his hut. He was caught¶ six days afterwards, and some few hours afterwards the other

* Witness No. 8, Shuriatoollah.
,, ,, 9, Jehan Geer.

† Witness No. 1, Kashinath.
,, ,, 4, Fotik.
,, ,, 11, Haroo.

‡ Witness No. 12, Bawul Chunder.

§ Witness Nos. 1, 4 and 11.

|| Witness No. 1.
,, ,, 3, Gora Gazee.

¶ Witness No. 1.
,, ,, 4.

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two prisoners* were caught, escaping with bag containing the above s minus twelve annas.

* Witness No. 2, Badoolla Chowkeedar.
" " 3.

Here the prisoner No. 2, does not deny the receipt of the money, but professes that his zemindar had a quarrel with plaintiff, and that he heard, on returning home with the money, that a peon of the zemindar would catch and beat him, and therefore he ran away with the money intending to place his wife elsewhere and then go to plaintiff; that he met witness No. 1, at Kapore and wanted to deliver the money to him. He first told his brother-in-law, prisoner No. 3, to pack up his goods in two bags and follow him and then went to the thannah and gave up the money, after converse with plaintiff. This is contrary to the evidence for the prosecution, and is not corroborated by any witnesses for the defence.

Prisoner No. 4, (the wife) in the foujdary declared she "was at home when her husband, prisoner No. 2, was caught." Now the evidence for the prosecution shews that she was caught with prisoner No. 3, escaping with the money some hours after the capture of her husband. This shews that she was acting independently of her husband.

Prisoner No. 3, in the foujdary, declared that prisoner No. 2, put a bag upon his head; he then said "in a *banghy*," and that he was caught carrying it. The weight of the Rupees he pretended to have mistaken for a *kooralee* and other iron utensils.

The jury gave a verdict that counts Nos. 1 and 2, are proved against prisoner No. 2, and count No. 3, against the prisoners Nos. 3 and 4.

I concur in opinion with the jury. I convict prisoner No. 2, of embezzlement and theft, and sentence him, under Act XIII. of 1850, to seven years' imprisonment with labor in irons. I convict prisoners, Nos. 3 and 4, of knowingly receiving and having in their possession stolen property, and sentence prisoner No. 3, to three years' imprisonment with labor in irons, and prisoner No. 4, to three years' imprisonment with labor suitable to her sex.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick.) The petitioners state no grounds for their appeal. And the Court sees no reason for interference, after perusal of the record of the trial.

PRESENT:

A. DICK AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT AND KALEE MOHUN DASS

versus

RAMSHURN DUTT.

Mymensingh.

1855.

July 11.

Case of RAMSHURN DUTT.

Prisoner convicted of culpable homicide under gross oppression, and the greatest provocation, therefore sentenced, under all the circumstances, to imprisonment for one year, with labor without irons, and ten rupees fine in lieu of labor.

CRIME CHARGED.—Wilful murder of Sumbho Sircar.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensingh.

Tried before Mr. W. T. Trotter, sessions judge of Mymensingh, on the 4th May, 1855.

Remarks by the sessions judge.—The deceased was a *tehseeldar* in the employ of one Radhanath Turkolunkar, and the prisoner his ryot; and the prisoner's account of the matter, as detailed in his confession at the thannah, the foujdary and in this court, is, that a few days previous to the date of occurrence the deceased demanded from him nine rupees rent due, and fifty rupees, the amount of a bond, but as he was not indebted, he declined to pay, upon which he confined him for some hours in the house of Shunker Deo, witness No. 22; that on the day of occurrence the deceased again demanded payment and took him along with him to the house of Gour Chunder Nath, where they both sat down, the deceased persisting in his demand and the prisoner pleading inability to pay, &c.; that the prisoner then got up to go away, when he was followed by the deceased with a thick bamboo club in his hand, who kicked him on his chest and knocked him down, he then immediately got up enraged at this rough treatment and seizing the club from the deceased's hand administered a severe blow on his right temple with it and felled him and he (prisoner) supposes that as the blow was severe, he must have immediately died, though he had no intention of killing him.

The occurrence was witnessed by two women,* neighbours, who state that they saw the deceased, *tehseeldar*, and the prisoner quarrelling together for rent, and to the deceased kicking the prisoner, and to the latter seizing the club from the deceased's hand and striking him on the temple in return. The other witnesses† to the circumstances saw the deceased's corpse, having been attracted there by the screams of Gour Chunder's mother, Rajeshurree (witness No. 11,) at whose house the affair took place.

* Witnesses Nos. 1 and 2.

† Nos. 11, 12, 13, 14, 15, 16 and 17.

The body was too decomposed to admit of the civil surgeon stating what was the exact cause of death; he mentions how-

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ever, that there was a severe fracture of the skull on the right side of the head above the ear, and if such an injury had been inflicted with a *lattee* during life, it would have been followed by almost immediate death; and the witnesses, to the inquest held in the mofussil, state that there was a severe wound on the right temple and blood flowing from the nostrils.

The prisoner named witnesses to the deceased having confined him some days previous at the house of witness No. 22, and his witnesses have supported that fact.

The law officer convicted the prisoner of the crime of wilful murder and declared him liable to the penalty of *kissas*, on account of the dangerous and heavy weapon used and the manner in which the prisoner admits he used it. In this verdict, I do not concur, as I do not think the crime can amount to more than culpable homicide, owing to the great provocation he received at the hands of the deceased, who, on being first knocked down by him, seized the club the deceased had in his hand on the impulse of the moment and inflicted the fatal blow. There was no premeditation, and in such a case, I consider that a punishment of three years' imprisonment without labor and irons and a fine of thirty rupees, or in default, to labor, would be sufficient, and which I accordingly beg to recommend.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The evidence in this case proves gross oppression, and the greatest provocation on the part of the deceased, a young man of thirty years of age, towards the prisoner, aged sixty years. After prolonged vexatious treatment, when the prisoner was going peaceably away he was stopped, abused, and kicked down by the deceased; on which he snatched a bamboo from the hand of the deceased, in self-defence and on the spur of the moment felled him with a blow on the temple. The severity of the blow, the place struck, and the use of the weapon, the bamboo with both hands, alone render the retaliation culpable.

The Court, concurring with the sessions judge, convict the prisoner of culpable homicide, and under all the circumstances, sentence him to one year's imprisonment with labor without irons, or in lieu of labor to pay ten rupees within a month.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BEYCHOO MUSSULMANEE

versus

SHEIKH MEAJAN (No. 2,) SHEIKH MANICK (No. 3,) AND SURO BEWA (No. 4.)

Hooghly.

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July 11.

Case of SHEIKH MEAJAN and others.

The female prisoner was convicted of privity to murder and sentenced to six months' imprisonment. Two other prisoners were acquitted.

CRIME CHARGED.—1st count, wilful murder of Sheikh Abdoollah, husband of the prosecutrix, on the night of the 3rd May, 1855, corresponding with 21st Bysack, 1262, B. S; 2nd count, culpable homicide of the said Sheikh Abdoollah; 3rd count, prisoner No. 4, privity to the above crimes.

Committing Officer.—Mr. F. R. Cockerell, officiating magistrate of Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly on the 2nd June, 1855.

Remarks by the additional sessions judge.—The deceased was the husband of the prosecutrix, and she deposes that he parted with her on the night of his murder about 8 o'clock, saying that he should be soon back. He was in the habit of spending part of the night from home now and then, but as he did not return *all night*, and the prosecutrix hearing a report next day early, that a man was lying dead on the side of the road, some distance off, she became alarmed, lest it might prove to be her husband, and ran straight to the place indicated to see if it was. Her fears were realized: for it was her husband.

The body was found by the side of the high road, behind the house of a prostitute, and close to a house belonging to the female prisoner, No. 4. She was not to be found, and it proved by her continued absence that she had altogether fled from the place on the very night of the murder.

Suspicion had fallen upon prisoners, Nos. 2 and 3, owing to their having been seen drinking with the deceased on the eventful night in the house of prisoner No. 4. On the capture of prisoner, No. 4, after a space of twenty-one days she confessed that the deceased and the prisoners Nos. 2 and 3, were drinking together in her house on the night of the murder; that at 8 o'clock she went out to give her cattle some food and did not return till 11 o'clock. She then found the door of her house fastened from inside, and on her getting admittance, she saw the deceased stretched out dead on the ground, and the two prisoners in the house. They forbad her to make any noise, and at about 3 o'clock, they dragged the body outside the house. Having taken it a short distance off, they abandoned it, and then retired to their respective houses. The prisoner was

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so alarmed at the consequences to herself of the murder happening in her house, and the knowledge she had of it, that she absconded.

At the trial before me, prisoners, Nos. 2 and 3, deny the murder, and they both also deny that they were engaged drinking liquor with the deceased on the night of his death.

The female prisoner adheres to the statement she originally made.

Witnesses Nos. 10 and 11, depose that as they were passing the house, they saw the deceased and the three prisoners drinking *taree* at two hours after midnight in the house of prisoner, No. 4.

The civil assistant surgeon deposes that the body of the deceased having been examined by him, he found the brain in a state of inflammation, probably the effect of over-drinking. The lungs were squeezed to pieces, the undoubted effect of violence; in fact the prisoner was in some way unknown, squeezed to death.

The prisoners Nos. 2 and 3, named witnesses in their defence, but prisoner No. 4, did not.

As it did not seem to me that the evidence established any kind of guilt against prisoners, Nos. 2 and 3, I put the usual question to the law officer whether he deemed it necessary to hear the exculpatory evidence, which prisoners Nos. 2 and 3, had to offer. To this he answered in the negative, and I then called upon him for his *futwa*. To my surprize he convicted all three prisoners of the *culpable homicide* of the deceased.

I am not sure whether I should not have been justified in cancelling the *futwa* and requiring another one after the examination of the prisoners' witnesses. But I am doubtful whether I could legally do this, after I had declared the trial closed, and as, in my opinion, it is perfectly plain that the prisoners Nos. 2 and 3, are *not guilty*, I think it better to submit the trial, as it is, for the final determination of the superior Court.

Witnesses Nos. 10 and 11, did not say till the sixth (the second day after the murder) that they saw the deceased drinking in company with the prisoners Nos. 2 and 3. Their evidence is also otherwise not deserving of very great credit; still allowing that they did see the parties together at the time and place stated, it does not establish any thing against the prisoners as tending to criminate them upon the charge of murder. They might have been drinking with the deceased and still be quite guiltless of his murder. Then again the two witnesses' statements and that of the prisoner No. 4, are quite at variance on a very material point of fact. The two witnesses say that they saw the three prisoners and the deceased drinking

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tarec together at two in the morning. The prisoner, No. 4, says that Abdoollah was dead at eleven at night. The little corroboration that the confession of prisoner No. 4, gives to the evidence of the two witnesses, is thus entirely destroyed. I would therefore, in dissent from the *futwa*, acquit prisoners Nos. 2 and 3, in whom I would further observe, there seems no sufficient motive to commit crime.

In regard to prisoner No. 4, though I do not believe her statement, I am satisfied from her admission that however and by whomsoever the deed may have been done, she was privy to it after the fact. She confesses to that effect in my court after being duly warned of the consequences, and nothing is more likely to be true than that admission. The deceased was known to be in the habit of visiting the prisoner, his body was found not further than a few paces from her house, and she fled from her dwelling as if impelled by conscious guilt the very night of the murder. The doctor's testimony leaves no doubt that the deceased was murdered, and that in a very cruel manner, and though I disbelieve the prisoner's statement as to the circumstances attending the crime, and the persons by whom it was perpetrated, I would hold her bound to the extent of her admission, that she was privy to the crime of murder after the fact, and convict her on that count, awarding her a sentence of seven years' imprisonment with labor in irons, which sentence I accordingly pass, but await the confirmation of it by the superior Court, before I send the warrant to the magistrate.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner admitted that she saw the body of the deceased in her house on her return, and that Manick, a person released, threatened her and told her to keep silence. On this she ran away and absconded. This, taken with the fact that the deceased did die a violent death, is strong circumstantial evidence that she was aware that a murder had been committed; though the perpetrators were not detected, and the parties charged have been acquitted.

We convict the prisoner, upon her confessions before the magistrate and in the sessions court, and sentence her, upon proof of privity to the fact, to six months' imprisonment with labor suited to her sex. The other prisoners are acquitted in concurrence with the sessions judge.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND KARA CACHAREE
versus
DAGRING GARROW.

Assam.

1855.

July 11.

Case of DAGRING GARROW.

The prisoner, a Garrow, was convicted of the wilful murder of a wood-cutter, and sentenced capitally.

CRIME CHARGED.—1st count, theft attended with murder of Beekla; 2nd count, receiving stolen property knowingly.

Committing Officer.—Captain W. Agnew, magistrate of Gowalparah.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 15th May, 1855.

Remarks by the deputy commissioner.—The prosecutor is a master wood-cutter, who having occasion to attend the zillah court, deputed the deceased, his father-in-law, to look after his under-cutters during his absence from the forest, and he appears to have stayed about the hut they occupied, to take charge of their things. One day these wood-cutters, on coming in from their work, found the hut deserted and their property gone, and thinking the deceased might have returned to his village, went there to seek him, but not finding him, gave notice to the prosecutor, who came to the spot, and they made search for the deceased, and were returning fruitless, when attracted by a bad odour proceeding from some jungle within two gun-shots from the hut, they discovered the mangled remains of the deceased, the crown of the head sliced off and hanging by the skin of the scalp, two wounds on the back, the back-bone being cut through, four fingers cut off the left hand, both ancles cut into, but not through the bone, the wounds indicating the use of the Garrow *lungbari* or sword.

The police, through the instrumentality of a Garrow interpreter, and a Lushkur, and Thangben Garrow, got a clue to the crime having been committed by the prisoner, Dagring, and one Bengra Garrow, who had seen them wearing the stolen clothes. The prisoner was apprehended, but Bengra escaped. With the prisoner were found articles, one to eleven, of the stolen property, belonging to the wood-cutters, the Garrow sword was discovered in the prisoner's house.

The prisoner pleaded guilty. Before the police he confessed that having been called and told by his uncle, Bengra, that he had seen a solitary individual at the wood-cutter's hut, he proposed that they should go and kill him, and bring away the property. They set out accordingly, armed with the *lungbaris*, and arriving at the spot in the forenoon, where they saw the deceased sitting; Bengra, stole up and gave him the first blow, cutting off the crown of the head, which only adhered by the skin; and

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the prisoner despatched him with a blow across the loins. After he was dead, they inflicted some other wounds, Bengra cut off the four fingers and making cuts on both legs, after which Bengra went into the hut, and brought out the vessels and property, which on their return, they divided, and being taken prisoner, he gave up his share. He made a similar confession before the foujdary with this difference, that he says life was extinct, from the blow inflicted by Bengra, before he, prisoner, struck, and that it was in play that he cut the body. In his after-defence, he says that Bengra having killed the deceased, he went forward to see if he was really dead, when he inflicted the wounds on the back and loins, and left the body where it had fallen.

* Monee, Jingarep, Koodra and Banoo.

Four witnesses* depose to missing the deceased, and after searching for him without success, they were at last led by a bad odour to some jungle, where they found his remains, as above described, and which they removed to the village, when the circumstance was reported to the zemindar and the police. The mohurrir came and held an inquest, and saw the wounds as already described.

Two of these witnesses further state, that deceased was left behind at the hut, while they went to cut wood as usual, and on their return missed the deceased, and the property left under his charge, and gave information to the prosecutor.

† Loonguthram, Doomna, Probun, Dousing, Janking (Garrows.)

‡ Korah, Sonah Lushkur, Thanben (Garrows.)

These witnesses† prove the confession made by the prisoner before the police and the foujdary court.

Three witnesses‡ depose to the clue to the perpetrators and to having accompanied the darogah, when the prisoner was apprehended by Korah and Sonah, of their number, at which time the sword and stolen property (articles from Nos. 1 to 11,) were pointed out by the prisoner and recovered, while Thongbun further adds that the prisoner had before told him that he had obtained the property by murder.

§ Ligaum.

Another witness,§ the father of the prisoner, deposes that having seen the prisoner with the eleven articles, was told that they had been obtained by him and Bengra killing a Catcharee, and that Bengra had cut him on the head, legs, back and loins, but the sword having been washed, showed no marks of blood.

Emgaram, Dobasiah.

Deposes to the truth of the interpretations given.

Verdict of jury and magistrate.

The jury and magistrate were unanimous in their verdict, convicting the prisoners of the charges.

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Opinion of deputy commissioner. The disappearance of the deceased and certain articles of property from the wood-cutter's hut, of which he had been left in charge, the subsequent discovery of his mangled remains in some jungle distant about two gun shots from, not at, the hut (circumstances which, taken in connection with the prisoner's confessions, can only be accounted for by the supposition that on this point, he has had some object in mis-stating facts) is fully established by the evidence and clearly proves the facts of the theft and murder.

The circumstance of the prisoner having been questioned by the villagers and his father, respecting a piece of cloth he wore, and which he said he had obtained by the commission of this crime, his apprehension, the discovery of articles of the stolen property in his possession, his free confessions before the police and foujdary court, and corresponding with the *sooruthal* in respect to the wounds on the corpse, leaves no doubt on my mind, in regard to his having actively participated in a murder as savage as it was wanton, nor can what he has stated, admitting it to be true, that the first blow was struck by his confederate, afford ground for mitigation of punishment, as the savage participation is fully admitted.

I would therefore recommend that he, Dagring Garrow, be sentenced to suffer death.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner's repeated confessions, throughout the trial, convict him of the murder of the deceased, Beckla, whose property, clothes, *lotas*, &c., were found in his possession. Concurring with the deputy commissioner, we sentence the prisoner, Dagring Garrow, to suffer death.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND DHURMJOY PAL

versus

KANIE KAHAR (No. 5,) NONAOOLLA SHEIKH (No. 6,) SABER SHEIKH (No. 7, APPELLANT) BABOORAM DASS (No. 8,) CHYTUNNO ROODDRO (No. 9,) AND GORA GAZEE (No. 10, APPELLANTS.)

Jessore.

1855.

July 12.

Case of KANIE KAHAR and others.

The prisoners were convicted of dacoity and sentenced by the sessions judge to seven years' imprisonment. In appeal the conviction of one prisoner was affirmed, and the others were acquitted for want of evidence.

CRIME CHARGED.—1st count, dacoity in the house of the prosecutor and plundering therefrom property, valued at Rs. 79-6, on the night of 13th February, 1855, corresponding with 2nd Phagoon, 1261, B. S.; 2nd count, Nos. 5, 6, 7, 8 and 10, knowingly having in their possession portions of the plundered property; 3rd count, No. 8, being privy to the above dacoity.

CRIME ESTABLISHED.—Nos. 5, 6 and 9, dacoity and Nos. 7, 8 and 10, knowingly having in their possession portions of the plundered property acquired by dacoity.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. R. M. Skinner, sessions judge of Jessore, on the 27th April, 1855.

Remarks by the sessions judge.—It is in evidence* that a dacoity occurred on the night of 13th February at the house of the plaintiff. The chowkeedar, Shureef, gave notice to the darogah at Soondulpore, under thannah Tirmohonee, the following evening.

* Witness No. 1, Shubbanund.
" " 2, Gopeenath.
" " 3, Komul Pal.
" " 4, Uckoor ditto.
" " 5, Pheedoo ditto.
" " 6, Ramjeebun.

The darogah took the deposition of plaintiff's brother, Kalachand Pal on 15th, and of plaintiff on the 16th on the spot (Altapool) which is three *coss* from the thannah. No person was recognised at the time of the occurrence. On 22nd February, Sabur, witness No. 40, chowkeedar of Altapool, gave information to the darogah that Koobir Jooghy, who had been long a fugitive from the jurisdiction of Kolaroa and had wandered hither and thither, had put up at Bagotee mouzah, adopted a new caste and called himself a Kait (instead of a Jooghy,) and struck up friendship with Gor Mundul, a released prisoner. Both these suspicious characters had joined prisoner No. 9, Chytunno, a released convict, and put up with witness No. 35, Birmoo Bewah, they indulged in liquor and were reputed to have committed dacoities. He therefore suspected that they had committed the dacoity at plaintiff's. The darogah searched the house of witness No. 35,

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Birmo on 23rd, and found various properties. She went into the jungle behind her house where she dropped lot three, a silver chain. The darogah sent for plaintiff who was unable to come (*vide* report dated 22nd March,) owing to the sickness of his brother Kalachand Pal aforesaid, until 3rd March, when he identified the said lot three, ornament which corresponds with No. 8, of the plaintiff's inventory, dated 15th February, filed by Kalachand (above named); witness No. 35, Birmo explained on 4th March, that she had got the said ornament, which plaintiff recognised, from Gor Mundul, Kubir Jooghy (both above named) and prisoner No. 8, Babooram Dass in presence of witnesses* in pledge. These witnesses corroborated her assertion. Other witnesses† identified the property.

* Witness No. 36, Kedarnath.
,, ,, 37, Tokeemamood.
,, ,, 38, Goraie.
† ,, ,, 28, Jeetoo.
,, ,, 29, Nazir Bearah.

On 25th February, witness No. 39, Ariz Chowkeedar, of bazar four-anna Kuttongatta informed the darogah that, when near the house of prisoner No. 5, (Kanie) he overheard the latter conversing with prisoner No. 6, Sonaoolla and Rohumut (absent) in a low voice and saying that the darogah would not keep still and they had better be on their guard. On seeing witness, they held their tongues. The darogah searched their homes; prisoners Nos. 5 and 6, both confessed: the former‡ produced lot 1, a *lota* (i. q. No. 15, of inventory) and the latter‡ caused his mother to give up two rupees as obtained by dacoity (in No. 19 of inventory, Rupees are mentioned.) Their confessions were recorded§ the following day and they named prisoner No. 8, Babooram above-named, prisoner No. 10, Gora Gazee, prisoner No. 7, Saber, prisoner No. 9, Chytunno, (above) and also implicated each other. They repeated|| their confessions before the acting magistrate.

‡ Witness No. 7, Kolum Bearah.
,, ,, 8, Mokim Sheikh.
,, ,, 6, Durap chowkeedar.
§ ,, ,, 16, Tarachand Dutt.
,, ,, 17, Modoosudun Shaha.

|| Witness No. 19, Radhamohun Sircar.
,, ,, 20, Shuriatoollah.
,, ,, 21, Kazim Ali Khan.

Prisoner No. 10, Gora Gazee, was apprehended on 28th February, and on searching his house, lot No. 25,¶ a gold *nuth* (i. q. No. 17, of inventory) was discovered, and on 2nd March, prisoner No. 7, Saber's house was searched and lot No. 33,* (i. q. No. 2, of inventory) a necklace was found.

¶ Witness No. 32, Koolash Duffadar.
,, ,, 33, Housain Mundul.
,, ,, 34, Nussai Moonshee.

* Witness No. 25, Omur Mundul.
,, ,, 26, Chunun Duffadar.

Prisoner No. 9, was not at

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home when his house was searched, he was caught on 5th March.

Plaintiff identified on 3rd March, the said lots Nos. 25 and 33, found in the house of prisoners* Nos. 10 and 7,† as well as the lot No. 1, produced by prisoner No. 5, and the lot No. 3, pledged by prisoner No. 8, Babooram, above adverted to who was consequently apprehended on that date. Plaintiff identified no property in the houses of prisoner No. 9, Chytunno or Rohumut. Prisoners Nos. 8, 9 and 10, were before punished‡ for bad character, theft and burglary. Prisoners Nos. 5, 6 and 9, at the sessions, deny the crime, and profess that the darogah caused them to confess in mofussil, and prisoners Nos. 5 and 6 say, they were warned to repeat the same before the magistrate, that they might become witnesses and be released. Prisoner No. 9, avers that he did not confess before the magistrate, and that the confession written by the darogah was copied in the foujdary.

* Witness No. 3.
,, ,, 4.
,, ,, 5.
,, ,, 6.

† Witness No. 4.
,, ,, 5.
,, ,, 6.

‡ Witness No. 32.
,, ,, 33.
,, ,, 34.
,, ,, 45, Kanaie Singh Burkundaz.
,, ,, 46. Jaroolla ditto.
,, ,, 47, Gopaul ditto.

The other prisoners also deny their guilt.

Prisoner No. 7, claims lot No. 1, as his own but has no witnesses to this fact.

Prisoner No. 8, says, "one Roopchand has a dispute with him." "Roopchand is burkundaz of one Sookomey, and that witnesses Nos. 36 to 38, are ryots of Srimunt Mozoomdar, sharer of the said Sookomey. The evidence of these witnesses Nos. 36 to 38, he attributes to collusion, but there does not appear to be sufficient grounds for this asseveration."

In the foujdary he merely said he had been seized for some ryot, but was released, but said nothing of his having been imprisoned as a bad character.

Prisoner No. 10, enters into no defence.

None of the witnesses named by the prisoners, exculpate them.

Prisoners Nos. 5, 6 and 9, by their own confessions before the police and before the acting magistrate and by the evidence of witness No. 39, and by the identification of lot No. 1, found with prisoner No. 5, and proved to belong to plaintiff and to have been obtained by dacoity, are guilty of dacoity, and prisoners Nos. 7, 8 and 10, as above shewn, are guilty of knowingly having in their possession portions of the plundered property acquired by dacoity.

I sentence them each to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner No. 5, confessed in the mofussil and before the magistrate; the property which was produced from his possession and which he claims to be his own, was not recognised by his witnesses, though the circumstance of a peculiar indentation which was pointed out as the means of recognising the *lota*, is the ground of prisoner's defence.

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The prisoners Nos. 6 and 9, are said to have confessed, but there are no circumstances in corroboration of their admissions, while the great delay which occurred in the discovery of any trace of the dacoits and the manner in which the offenders were eventually seized is very suspicious.

The other prisoners pleaded *not guilty* throughout. We confirm the sessions judge's sentence upon the prisoner No. 5, and acquit the others for want of proof.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

GOVERNMENT AND MUTHOORAKANTH ON THE PART OF MOHAMAYA DASSEA

versus

CHERAG ALLEE SHEIKH (No. 2,) CHAND KHAN (No. 3,) HUSSAIN KHAN (No. 4,) MEHAR KHAN (No. 5,) SHEIKH BANDOO (No. 6,) KESHUB KHAN (No. 7,) AZEEM KHAN (No. 8,) MUDHOO MEAN ALIAS KALA MEAN (No. 9,) ALUM MEAN (No. 10,) KHODA NEWAZ KHAN (No. 11,) KADER BUCKHSH KHAN (No. 12,) AND FOJUR ALLY SHEIKH (No. 13.)

Dacca. 1855. July 12. Case of CHERAG ALLEE SHEIKH and others.

Conviction and sentence passed by the sessions judge on a charge of burglary and receiving stolen property, upheld in appeal.

CRIME CHARGED.—1st count, Nos. 2 to 12, burglary by opening the door of the house of the prosecutor's mistress and stealing property to the amount value of Rs. 1,252-15; 2nd count, knowingly receiving and keeping the said property, and No. 13, 1st count, accessary before and after the fact; 2nd count, knowingly receiving and keeping the property acquired by the said burglary.

CRIME ESTABLISHED.—Nos. 2 to 12, burglariously entering the house of the prosecutor's mistress and stealing property to the value of Rs. 1,252-15, and No. 13, being accessary to burglary and theft before and after the fact.

Committing Officer.—Zeynoodeen Hossein, deputy magistrate of Manickgunge.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 23rd March, 1855.

1855. July 12. Case of Chhrag Allee Sheikh and others.

Remarks by the sessions judge.—The house of the prosecutrix was entered burglariously at night, and a box, containing the property, stolen. An alarm was given at the time, and some persons assembled. Sheikh Peerun was next day sent to the thannah, but there he either made a false report, or the darogah did not report properly. A few days after, the prosecutrix, finding the darogah did not come, sent again for the police, and suspicion falling on the prisoner No. 13, (a servant of the prosecutrix) his house was searched, and on his confession, other prisoners were apprehended, in the possession of all of whom, part of the stolen property was found.

All the prisoners confessed more or less fully at the police and before the magistrate. In this court, some pleaded *not guilty*, while others made partial admissions.

The law officer convicted all the prisoners on the first count charged.

The prisoners, Nos. 3 and 4, live together, and from his confession, No. 4, must have been aware of the theft, though the property was given up by prisoner No. 3.

The prisoner No. 13, Fojur Ally, though charged as an accessary only, has been punished equally with the principals. He was a servant of the prosecutrix, and appears, by his own confession, to have planned the robbery.

The deputy magistrate's attention has been directed to the report made by Sheikh Peerun at the thannah. This person either became an accessary by making a false report, or the darogah did not give a correct statement of the complaint made to him.

Sentence passed by the lower court.—Nos. 2 to 13, each to be imprisoned for the period of seven years with labor and irons.

Remarks by the Nizamut Adawlut.—Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The deputy magistrate should be instructed to sign his name without abbreviation. The signature attached to the confessions taken before him ought to bear a full signature; as they are now recorded they might be read Zeinooddeen, Zeahooddeen, &c., Hossein. The Circular Order of 9th September, 1842, issued to the civil judges, directs that uncovenanted officers should always sign their names full, instead of using initials.

The prisoners confessed before the police and the deputy magistrate; they also produced the stolen property.

Prisoner No. 13, was formerly in the service of the prosecutrix, and before the magistrate confessed he had pointed out to some of the other prisoners, the box which contained money and ornaments, which were stolen.

We see no reason to interfere with the conviction of the prisoners and the sentences passed upon them severally.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

KHATEER SHEIKH (No. 5,) AND BAHER SHEIKH (No. 6.)

Moorshedabad.

1855.

July 13.

Case of KHATEER SHEIKH and another.

Prisoners convicted, one of aggravated culpable homicide, and another of being accessary after the fact. The former sentenced to fourteen years with labor in irons in banishment and the latter to seven years with labor in irons.

CRIME CHARGED.—1st count, Nos. 5 and 6, wilful murder of Zeera Bebee; 2nd count, No. 6, privity to the said crime.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 9th June, 1855.

Remarks by the sessions judge.—The prisoners pleaded *not guilty.*

This is a painful and somewhat difficult case. The law officer in his *futwa* convicts the prisoners of manslaughter. He states there is no proof of murder, and, relies chiefly on the confessions of the prisoners. I entirely discredit the material part of these confessions. They are refuted by the facts of the case and the circumstantial evidence.

The prisoner No. 5, is husband of the deceased, and prisoner No. 6, is his uncle.

The prisoner No. 5, states that about noon, on the 23rd Bysack, or 5th May, the deceased (his wife) refused to give him some water when he asked her, and that upon his threatening her she ran into an adjoining apartment, which was a *peer ke ghur*, where he followed her, and gave her a slap upon the side of her head, and she fell to the ground, that he left her and went and bathed, and on his return found she was dead, and that fearing the consequences, he, with the assistance of prisoner No. 6, suspended the body by a rope, and gave out that she had hung herself.

This is mostly confirmed by the statement of prisoner No. 6.

If these statements are to be believed, the prisoner No. 5, is guilty only of manslaughter, and the prisoner No. 6, of being an accessary after the fact.

Witnesses Nos. 18, 19, 21, 22 and 23.

But it is in evidence that after the body was suspended, the door of the apartment was locked, and the prisoner No. 5, kept the key, and that the door was not opened till the morning after.

Witnesses Nos. 22 and 23.

That the prisoner No. 5, the next morning, when the barkun-

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dazes, who came from the *pharee* at Kandhee, saw the body, begged them to get him off.

Witnesses Nos. 1, 2, 3, 4, 5, 6 and 22.

That the body was swollen in different parts from blows, and stained with blood, which was trickling from the ears, nose, and mouth, and that there was a quantity of blood on the floor about three feet from the body.

Witnesses Nos. 1, 18 and 23.

It is in evidence that Ruffo Bewah, the mother of the prisoner No. 5, who was in his house on the 23rd Bysack, fled on that day, and has not since been heard of.

Moreover Dr. Saunders, in his evidence, states that when he saw the body, during the *post mortem* examination, the tongue protruded and this could not have taken place, unless the body was suspended when life was not extinct.

This fact, a very material one, is strengthened by the evidence of witness No. 22, who gave his deposition in a very clear and satisfactory manner, and on whose veracity I am inclined to depend.

All this raises the strongest possible presumption, that the deceased met her death unlawfully at the hands of the prisoner No. 5, who committed a more aggravated assault upon her, than he has dared or been willing to confess.

The only question is, whether it was premeditated, to make him guilty of murder, or on a sudden and without premeditation or intent to take life, so as to justify the *futwa* of manslaughter.

If the fact of the tongue protruding, when the officiating civil surgeon examined the body may be taken as an undeniable indication that life was not extinct when the body was suspended, the case would be clearly one of murder, provided the prisoner No 5, was aware at the time, that death had not taken place.

Witnesses Nos. 1, 2, 3, 4, 5 and 6.

Several witnesses declare that the tongue was inside the mouth when they saw the body suspended.

It is possible that life may not have been quite extinct, when the rope was applied to the neck, and the protrusion was caused as Dr. Saunders explains, by pressure on the wind-pipe and stoppage of the circulation.

But giving the prisoner the benefit of a doubt in a case, dark as it is, yet shrouded in mystery, and admitting the possibility of his suspending the body without knowing that life still remained, and that he beat her severely without intending to take her life, I convict him of aggravated culpable homicide and recommend, with reference to several precedents of the Nizamut

Adawlut, that he be sentenced to imprisonment with labor in irons in banishment for fourteen years, and the prisoner No. 6, as an accessary after the fact to seven years' imprisonment with labor in irons.

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July 13.

Case of KHATEER SHEIKH and others.

Remarks by the Nizamut Adawlut.—(Present: Messrs A. Dick and J. H. Patton.) Both prisoners confess before the police and the magistrate: prisoner No. 5, that in a moment of passion he struck his wife, a child about twelve or fourteen years of age, a slap on the cheek, which felled her to the ground, and she died; after which, in consultation with his uncle, prisoner No. 6, they out of fear suspended the body to the roof of the house, and gave out that she had hung herself. The prisoner No. 6, corroborates the confession of prisoner, No. 5, to the extent that he himself was concerned. The deposition of the civil surgeon in consequence of the decomposed state of the body, when he saw it, is far from satisfactory or conclusive; but it would lead to a suspicion, that the deceased had been suspended during life, from the protrusion of the tongue. That however appears to be by no means an unequivocal sign on that point; for we find, in a note at page 623, of Beck's Medical Jurisprudence, that the same effect has been produced in the dead body by fixing the cord in a particular situation, i. e. above the "*os hyoides*." No marks of violence were discovered on the body, except that the neck was broken, which might have been caused by the suspension. Further, the relatives of the deceased have testified that the husband and wife lived in amity, and no cause has been assigned in any way for the wilful murder of the deceased by her husband. Taking therefore into consideration, all the facts and circumstances confessed to and proved, we come to the conclusion, that the prisoner No. 5, in a moment of irritation, struck his wife a blow with such force as to have caused her death; and then, with the assistance of prisoner, No. 6, from dread of the consequences, suspended her to the roof of the house, and gave out that she had committed suicide. In concurrence with the sessions judge, we convict the prisoner No. 5, of aggravated culpable homicide, and sentence him to fourteen years' imprisonment, with labor in irons in banishment, and prisoner No. 6, of being an accessary after the fact, and sentence him, as recommended by the sessions judge, to seven years' imprisonment, with labor in irons.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

SHUFFEROODDEEN PROSECUTOR, AND GOVERNMENT CO-PROSECUTOR

versus

KISHORE CHUNDER DEO ALIAS ESHUR CHUNDER DEO.

Tipperah.

1855.

July 17.

Case of KISHORE CHUNDER DEO *alias* ESHURCHUNDER DEO.

The prisoner was convicted of the wilful murder of a boy, and was sentenced capitally, the peculiar atrocity of the case preventing any mitigation of punishment by reason of the prisoner's youth.

CRIME CHARGED.—Wilful murder of Busheerooddeen son of the prosecutor.

Committing Officer.—Mr. A. Abercrombie, magistrate of Tipperah.

Tried before Mr. Radcliffe, sessions judge of Tipperah, on the 9th June, 1855.

Remarks by the sessions judge.—The reference arises from a concurrence in the *futwa* of the law officer convicting the prisoner of the crime charged. The particulars of the case are as follows. The prosecutor stated that on Wednesday, the 30th May, having found his fish traps in the Dewan Khal broken, he was informed by one Shumboo that the prisoner had committed the injury, that it was proposed by Shumboo and one Lochun, that they should retaliate by destroying some of the prisoner's jacks, to this advice prosecutor did not listen, but nevertheless on the morning of the 1st June, he heard that some of the prisoner's jacks had been cut, and the "prisoner's mother* having seen the destruction, looked towards the prosecutor's house exclaiming that she would kill the son of the person who had cut her jack fruit."

* These words were elicited on cross-examination, but are inserted here to connect the thread of the narrative.

The prosecutor further continued that at 8 A. M., of the 1st instant, his son Busheerooddeen, went out to play with the other village boys and was not missed till noon; that on enquiries being then set on foot, witnesses No. 24, Abdool and No. 25, Reazooddeen, informed him that they had seen his son in company with the prisoner near the Dolbary tank, and that the prisoner had a *dao* in his hand; suspecting the prisoner had killed his son, prosecutor's brother reported the circumstance at the village cutchery; upon which Gungahram Mallee, witness No. 30, in a menacing manner came and inquired from prisoner what had become of the boy? On his receiving no reply, witness No. 30, gave him a kick, but still the prisoner maintained silence. The prosecutor then proceeded in person to the Dewan *Baree* and on his returning homeward at 8 P. M., he was informed by Ramnarain Deo, witness No. 28, that prisoner had con-

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fessed the crime and was prepared to shew the spot where the body was concealed; that accordingly he and the villagers accompanied prisoner to the Dolbary tank, when he pointed out the place in which the corpse was laid; on examination it was found with two terrible wounds one on the back of the neck, and the other on the left side of the head as described by witnesses Nobokissore No. 17, Ramchunder No. 18, and Bholanath No. 19.

The prisoner Kishore Chunder Deo pleaded guilty, and in his answer in this court corroborated his mofussil and foujdary confessions. To avoid any unnecessary prolixity, I will give the substance of his confession before me, remarking on any material discrepancies between that and his former admissions.

The prisoner declared he was standing in an empty house near his own homestead with *dao* in his hand; that his neighbour Busheerooddeen, a boy of six or seven years of age, came and asked him where he was going; on his replying to eat mangoes, he said he would accompany him; they accordingly went to the Dolbary tank where seeing two ripe mangoes on a tree on the eastern bank of the tank, he climbed up and threw them down. On descending, Busheerooddeen gave them both up, upon which the prisoner retained one and returned the other.

The prisoner, whilst eating his mangoe, declared that he exclaimed: "Oh God! I am eating a stranger's mangoes: who could have taken my jacks?" The boy replied that his father (the prosecutor), his mother, and Mun Gazee's wife had cut them; that he was enraged at hearing this, and came home pacing backwards and forwards, but still not being appeased he again returned accompanied by Busheeroodden to the place where he had been eating mangoes; that he then walked about the tank and returned home again; that after walking up and down for a few minutes he went a second time to the tank, and this he repeated three or four times, having seen his trees denuded of fruit, he went a fifth time to the tank where feeling in an excited state and seeing the deceased standing near the water's edge, he inflicted the incised wound on the right side of the boy's neck with the *dao*, produced in court, and then laying hold of the boy's right arm, he struck him another blow with the same instrument on the left ear extending down to the neck, that upon this, the deceased fell dead into the water, out of which he dragged the body and hid it in some long grass jungle that he then brought the *dao* home and became insensible.

The prisoner further observes that his mother obtaining no answer, thought him bewitched and wished to have him exorcised: that laboring under excitment, he did not reply to deceased's mother or the villagers when enquiring about the deceased; that Gungahram Mallee, witness No. 30, gave him a kick to induce him to speak; but on his cousin Gour Chunder Deo, witness No. 26, calling upon him to state what had become

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of the prosecutor's son, he confessed to having killed him with a *dao* and concealed the body in some jungle on the north-east corner of the Dolbary tank; that about 10 or 11 o'clock P. M., he pointed out the corpse which having raised from the jungle, he and Doppa Gazy, conveyed to the south of one Ruttun's house, and that next day he was taken before the darogah where he confessed having killed the deceased with the *dao* now in court.

In neither his mofussil, nor foujdary confessions does the prisoner make mention of these repeated visits to his house and tank prior to the murder, or of his having been kicked or beaten by Gungahram Mallee, witness No. 30.

In both those confessions he said that he went at 10 A. M., having a *dao* in his hand and accompanied by deceased, to eat mangoes at Dolbary, a place about a mile distant from his house; that, after hearing who had committed the depredation on his jacks, he returned home, and then went back to the tank *once* and at 11½ A. M., or near noon despatched the boy in the manner above narrated, and further, that being *menaced* he admitted the crime and pointed out the place where he had concealed the body.

Dr. Duka, the civil assistant surgeon, deposed to the wound on the back of the neck being the cause of death, that it was an incised wound, such as would be made by the prisoner's *dao* which was shown him, that the wound was inflicted with much violence, for not only had the fleshy parts been cut through, but also a portion of the skull, through which the brains had protruded.

To me, this case appears a foul and cowardly murder upon a boy of six or seven years of age; it is true there is no proof of the existence of previous enmity, nor is it possible that the prisoner could have borne the deceased any bad feeling regarding the loss of his jack fruit; in my opinion, finding himself alone, irritated, no doubt by the injury sustained, he was determined to gratify his revenge on the son for the father's supposed offence and thus deliberately murdered the boy at Dolbary tank.

There are no eye-witnesses to speak to the fact, but the witnesses Nos. 24 to 30, inhabitants of either the prisoner's village or its vicinity supply such circumstantial evidence* as coupled with the prisoner's reiterated confessions is conclusive that he inflicted the wounds of which the boy died.

* Vide magistrate's calendar.

The prisoner is likewise, by the evidence of Gour Chunder Deo, witness No. 26, Juggernath Nundy No. 27, and Ram Narain Deo No. 28, as well as by that of the assistant surgeon, shown to be of perfectly sound mind, this testimony is borne out by his general appearance. He is a well grown lad, but his age cannot exceed fifteen or sixteen. With the exception of his

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youth, I regret I can find no extenuating circumstance. I therefore concur with the law officer that he is liable to suffer death, but taking into consideration his tender age, I think the ends of justice may be satisfied without resorting to capital punishment, I would therefore recommend his being imprisoned for life with labor in irons in transportation.

With these remarks I leave the case in the Court's hands, trusting they will approve of the case and despatch shewn in its preparation and reference, not more than nine days having intervened between the perpetration of the crime and the recommendation of the prisoner for punishment.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner has throughout the trial confessed to the charge. His confession exhibits a deliberate intention to murder a child of six or seven years of age, which he effected with a *dao*, by inflicting two desperate wounds upon the neck and head. In his confession, he states that the child mentioned the names of his father, mother and another person, as the depredators of the prisoner's jack fruit. If this fact were proved, which however is not the case, it could not be pleaded in mitigation of the prisoner's guilt, for the child was himself no party to the theft.

The circumstances of this case develope such determination to take life, without any provocation ascribable to the murdered child, and evince such atrocity, that we are of opinion that no mitigated sentence upon the score of the prisoner's age should debar or interfere with the due course of law. We sentence the prisoner, on conviction of wilful murder, to undergo capital punishment.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

LUCHMUN GEER SUNYASEE (No. 1,) AND RAMGEER SUNYASEE (No. 2.)

Rajshahye.

1855.

July 17.

Case of LUCHMUN GEER SUNYASEE and another.

One prisoner was convicted of uttering and having in his possession counterfeit coin and the sentence passed on him by the sessions judge was upheld in appeal. The other prisoner upon whom only a small iron spoon was found, was acquitted in appeal.

CRIME CHARGED.—No. 1, 1st count, uttering spurious coin; 2nd count, knowingly being in possession of spurious coin; No. 2, being in possession of an instrument, suspected of having been used for melting the metal of which the spurious coin is made.

CRIME ESTABLISHED.—No. 1, tendering in payment a counterfeit eight-anna piece and having in his possession other counterfeit coin knowingly; No. 2, having in his possession an iron spoon or *hatta* used for melting pewter or lead with a view to making counterfeit or spurious coin.

Committing Officer.—Mr. J. C. Dodgson, magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 3rd May, 1855.

Remarks by the sessions judge.—Both prisoners are mendicants by profession. On No. 1 tendering in payment an eight-anna piece to a shop-keeper in the Beauleah bazar for some *ganja*, the latter said it was a bad one. A burkundaz coming up, the prisoner produced a rupee, and said he had no more, but on searching him twenty-two rupees more were found in his waist in a purse, and of these, twenty were bad or counterfeit, six having the head of the late king, William IV. and fourteen of her present majesty, Queen Victoria. The coins were weighed by a Podar, and all found to be of light weight or from 3 to $2\frac{3}{4}$ annas short of a *tollah* and the eight-anna piece only weighed $5\frac{1}{2}$ annas. The prisoner, when asked if he had any companion, said he had at Delall Shah's Durma Sallah, and which led to the apprehension of No. 2, on whom was found a *hatta*, or small iron spoon, in which some metallic substance had been melted, either lead or pewter. The prisoner pleaded he had purchased the spoon in the bazar here for a pice, but though sent to point out the shop, and produce the vendor, quite failed to substantiate his plea. There can be little doubt the two were in partnership; under the *futwa* (in which I entirely concur) I have sentenced them as stated below. The town has of late been infested with mendicants, who only assume the garb, I strongly suspect, to carry on the trade of passing bad money if not worse crimes.

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July 17.

Case of LUCHMUN GEER SUNYASEE and another.

The burkundaz has been rewarded, and the counterfeit coin ordered to be sent to the collector for transmission to the mint.

Sentence passed by the lower court.—No. 1, to four years' imprisonment without irons and to pay a fine of fifty rupees on or before the 3rd of June, 1855, or in default of payment to labor until the fine be paid, or the term of his sentence expire. No. 2, to one year's imprisonment without irons and to pay a fine of twenty rupees on or before the 18th of May, 1855, or in default of payment to labor until the fine be paid or the term of his sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We see no reason to interfere with the sentence passed upon the prisoner No. 1. He implicated the prisoner No. 2, upon whom a small iron spoon was found, this is not sufficient ground for conviction. We acquit prisoner No. 2.

Behar.

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July 17.

Case of WOZEER SINGH and others.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND JEEBUN SINGH PROSECUTORS

versus

WOZEER SINGH (No. 2,) GUNGARAM (No. 3,) AND NIRMUL SINGH (No. 4.)

The prisoners were convicted by the sessions judge of assault and oppression on a woman suspected of being a witch, from which cause she destroyed herself. There being no connection legally between the assault committed by the prisoners and the suicide of the deceased, the prisoners were acquitted.

CRIME CHARGED.—Assault and oppression on Musst. Roopoe *alias* Sanee Chroe Gwalin under a suspicion of her being a witch, from which cause she destroyed herself by taking opium.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. A. G. Wilson, deputy magistrate of Nowada.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 21st March, 1855.

Remarks by the sessions judge.—One Teekun Sonar's child of Chutoree, of which place Wozeer Singh, prisoner No. 2, is gomashta, Gungaram, prisoner No. 3, Putwaree, and Nirmul Singh, prisoner No. 4, Burryle, died, and on the 14th February last, Wozeer Singh, prisoner No. 2, happening to pass before the deceased's doorway, an elderly woman of about fifty years of age, she asked after the child, and Wozeer Singh at once acting on his suspicions of her having caused its death by witchcraft had her seized and brought to the *cutchery* by Nirmul Singh, where after slightly beating, and, through Gungaram Putwaree,

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causing her to sign a *mochulka*, she was allowed to return home where under the irritation of being charged as a witch, she the same night committed suicide by eating opium, as proven by the *post mortem*. The main facts stand acknowledged by the defences.

The jury* return a verdict of guilty against the prisoners on the count charged.

* Mulluck Khoodabux of Raiey's zillah Moonghyre, Sheikh Goolun Shaibgunge, Dhanoo Singh of Buq Saud, Gopaul Singh of Buq Saud, zillah Behar.

The assault and oppression personally considered was of the most trivial kind. It amounted to little more than calling the deceased to the village *cutchery* and warning her to discontinue witchcraft, under the ignorant prejudices of the people there is perhaps no accusation they dread more, and which is usually followed by the most grievous social persecution. In matters of this kind, both prosecutors and persecuted act beside themselves. But the law cannot reach such social ills unless accompanied by acts of a criminal kind which in the present instance, apart from such general consideration, are of the most unaggravated kind, scarcely warranting a severer punishment than that awarded.

Sentence passed by the lower court.—To be imprisoned without labor and irons Nos 2 and 3, for one (1) year and No. 4, for six months.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The gravamen of the offence is, that death of the woman was caused by the act of the prisoners; but there is no connection between the slight beating and the decease of Musst. Roopoe. The former was punishable by the magistrate, and if the deceased destroyed herself by taking opium, that cannot be legally charged to the prisoners. The imprisonment already undergone is more than ample for the simple assault. We acquit the prisoners, and direct their immediate release.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

GOVERNMENT

versus

PANOO PUTWAREE (No. 4,) LOGHANOO (No. 5,) GOODAMOORAH (No. 6,) BOODOOAH (No. 7,) HURREE CHURN (No. 9.)

Assam.

1855.

July 18.

Case of PANOO PUTWAREE and others.

The prisoners charged with riotous assault and plunder were acquitted in appeal, owing to the suspicious character of the evidence.

CRIME CHARGED.—Riotous assault with forcible plundering of property amounting to Rs. 235-12, not amounting to dacoity.

CRIME ESTABLISHED.—Riotous assault with forcible plundering of property amounting to Rs. 235-12, not amounting to dacoity.

Committing Officer.—Captain Rowlatt, magistrate of Kamroop.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 28th May, 1855.

Remarks by the deputy commissioner.—The defendants in this case are charged with riotous assault and with forcible plundering of property of the prosecutrix, a widow. A case was originally instituted in 1853, and sent by the magistrate to the Sudder Ameen for investigation, he dismissed it; it was appealed to the Court on the 27th September, 1853, with an order to make further investigation. The magistrate instead of holding this investigation in his own court returned it to the Sudder Ameen, who convicted the prisoner No. 4, of assault, and fined him two rupees. Against this decision, an appeal was made to the magistrate when he directed the police to enquire into the case, and after investigation in his own court made it over for trial before a jury, and commits the prisoners to take their trial before the sessions court. The jury acquitting and he convicting the prisoners.

After going over all the proceedings I find much conflicting evidence given for the prosecutrix at different times and by six different eye-witnesses. Three of these, however, are so far consistent throughout in respect to the riotous assembly and plundering of prosecutrix's house of her property, that I am of opinion that the charge is in essentials proved against Nos. 4, 5, 6, 7 and 9, although the value of the property is no doubt considerably exaggerated.

Sentence passed by the lower court.—To be imprisoned with labor and irons No 4, to one year, and Nos. 5, 6, 7 and 9, each to six months and to pay a fine of one hundred and fifty rupees jointly and severally, which will be paid as compensation to the prosecutrix for the plunder of her house.

1855.

July 18.

Case of Panoo Putwaree and others.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) With reference to the evidence of the three eye-witnesses, relied upon by the magistrate and the deputy commissioner, we observe that these persons were not named by the prosecutrix till nine or ten months after the charge was made, nor till the first set of witnesses named by her had failed to prove any thing in her favor. No mention, moreover, is made of the causes which led to the summoning of these witnesses, nor how the prosecutrix learnt that they had witnessed the assault and plunder of her house, nor is any reason assigned for not having named them in the first instance. It is impossible to rely on the evidence of individuals whose appearance as eye-witnesses is so totally unaccounted for, we therefore deem the prisoners entitled to their acquittal and direct their release.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BOWL BURKUNDAZ

versus

ANUND SHEIKH (No. 1,) HAROO SHEIKH (No. 2,) SHEALA SHEIKH (No. 3,) BHANGOR SHEIKH (No. 4,) CHAND MUNDUL (No. 5,) HASSIM SHEIKH ALIAS HASSIM MUNDUL (No. 6,) SALEEM SHEIKH (No. 7,) SAPHUL SHEIKH PURAMANICK (No. 8,) MOLUNG SHONAR (No. 9,) AND SUBDAL ALIAS SUBTHAL PURAMANICK (No. 11.)

Rajshahye.

1855.

July 18.

Case of Anund Sheikh and others.

One prisoner convicted by the sessions judge of privity to dacoity acquitted, owing to the insufficiency of the evidence. The sentences of the other prisoners were upheld in appeal.

CRIME CHARGED.—No. 1, 1st count, being an accessary before the fact to a dacoity committed in the house of Bowl Burkundaz; 2nd count, privity. Nos. 2 to 8, 1st count, dacoity in the house of Bowl Burkundaz; 2nd count, knowingly taking and possessing plundered property obtained by the above dacoity; 3rd count, privity. Nos. 9 and 11, 1st count, the aforesaid dacoity; 2nd count, knowingly taking and possessing plundered property obtained by the above dacoity; 3rd count, privity.

CRIME ESTABLISHED.—No. 1, privity to dacoity; Nos. 2 to 7, being accomplices in dacoity; Nos. 8, 9 and 11, knowingly receiving property plundered in dacoity.

Committing Officer.—Mr. J. C. Dodgson, magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 15th May, 1855.

Remarks by the sessions judge.—This, though a simple dacoity, was a daring one, having been committed close to the *sudder* station, in the house of a thannah burkundaz (but who

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was at his thannah, some distance off.) The value of the property and cash plundered is large for a person in such a situation; but burkundazes often accumulate money, and by lending it on usury get rich. The only inmates of the house were females of the family and neighbours (and which, no doubt, the dacoits had discovered.) They deposed to the dacoity, and that four dacoits entered the house. One witness (No. 4,) pointed out No. 11, (who, directly she did so, put down his head to avoid being identified). No reliance, however, can be placed on this part of her evidence, as she did not before recognize any of the dacoits. The probability is, after their apprehension (some days after the occurrence) the witnesses were not confronted with them. The first good clue to the perpetrators was the apprehension of No. 1, who had been seen in the village the day before and had been asking for the house of Manai Shah, which was pointed out to him. He also asked if a large *Bhurt* tree was in the village of Barampore. To the police, he confessed going to the village the night before, with others for the purpose of committing a dacoity, but which did not take place then, and next day he slept at Manai Shah's house and brought away an *adze* left in the Bhurt tree by one of the dacoits. The prisoners, Nos. 2, 3, 4, 5, 6, 7 and 11, implicated by No. 1, on their apprehension, confessed to complicity in the dacoity, and Nos. 1, 2, 3, 4, 5, 6 and 7, repeated their confessions before the magistrate; (the first again denying he was actually engaged in the dacoity.) On these confessions, fully proved to have been voluntarily made, and the finding of plundered property on Nos. 2, 3, 5, 6 and 7, (consisting chiefly of gold and silver ornaments and a remarkable green *saree*, the property of the prosecutor's daughter found on No. 3,) fully identified by the witnesses for the prosecution, I have convicted No. 1, of being an accessory before the fact, (as from the confessions made by him, and corroborated by the witness, Fyzoo Sheikh, there can be little doubt he was the *koojee*, or person sent out to mark the locality of the house to be attacked by the dacoits) and the other six of being accomplices in the dacoity. All seven assign precisely the same reason for the dacoity not taking place on the preceding night, viz. that the fire or light carried to ignite the *mussals* went out; and no dacoity is committed without a *mussal* being used to alarm the inmates of the house.

The prisoners, Nos. 8, 9 and 11, I have convicted of knowingly receiving plundered property. On No. 8, was found a gold *nuth*, or nose-ring, which he claimed, but could not prove his right to it. On No. 9, several silver articles, some of them broken, were found; and he totally failed to establish his right to them or how he came by them. In the premises of No. 11, under some plantain tree, were found a *hanslee*, and pair of *jumkas*. In the mofussil, the prisoner confessed obtaining these in the da-

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coity, and that he was present; and also to taking and concealing 250 Rupees. But as the police were unable to discover this money, I have some doubt as to the confession being a genuine one, and have therefore not convicted him on the graver charge of dacoity. The sentence passed on the prisoners is shown below, and I have on this occasion, imposed a joint fine for the value of the property and cash not recovered, under Act XVI. of 1850.

Attacking the house of a police officer close to the *sudder* station, was like thrusting their hands into a hornet's nest. The darogah and his subordinates were all put on the alert and the result of their investigation is satisfactory. It shows the proximity of daring offenders to the sudder station, and accounts for the numerous thefts and robberies that take place.

I may (in the event of an appeal) add, that the Court on a reference to the "comparative statement," prepared for their use, will see what witnesses to the finding of plundered property, and the confession, have been examined in this court. I have omitted mentioning them here, as my remarks on the trial are rather lengthy, and unavoidably so.

Sentence passed by the lower court.—No. 1, to three years' imprisonment with labor and irons; Nos. 2 to 7 to seven years' imprisonment with labor and irons and to pay jointly a fine of 500 Rupees under Act XVI. of 1850; Nos. 8, 9 and 11, to five years' imprisonment with labor and irons, and to pay jointly a fine of 500 Rupees under Act XVI. of 1850.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner, No. 1, has not appealed, but we find from the record that he has been sentenced to three years' imprisonment on conviction of privity to dacoity. The prisoner in answer, pleads that he was absent on the night of the dacoity, 25th February, he was neither recognized nor was any property found on him. The evidence does not prove his presence on *the occasion*, though he admits he was one of the party or *another*, when they failed in their attempt; this admission does not make him accessory to the dacoity when *it did take* place; nor can he be guilty of privity to an offence, which was not committed on the previous occasion.

The prisoners, Nos. 2, 3, 4, 5, 6 and 7, confessed in the mofussil and before the magistrate, and produced plundered property. They examined several witnesses in their defence who, however, altogether failed to prove any thing in their favor.

The prisoners, Nos. 8, 9 and 11, were charged with receipt of plundered property, knowing it to be such, and convicted of that crime; they claimed the property, but their witnesses did not recognise it as belonging to them. The prisoner, No. 1, is, for the reasons above stated, acquitted. We see no reason to interfere with the sentences passed by the sessions judge upon the prisoners whom he has convicted.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

TRIAL No. 1.

GOVERNMENT AND NEELARAM PALL

versus

SYUD ASGUR ALIAS ASHKER (No. 5,) SHEETABDEE ALIAS SHEETUL SIRDAR (No. 6,) SHEIKH JOMAH (No. 7,) ROHOMUT KHAN (No. 8,) NOWSHA KHAN (No. 9,) MONEER KHAN (No. 10,) TAMSHA GAZEE (No. 11.)

TRIAL No. 2.

GOVERNMENT AND GOOROOPERSHAD SHA

versus

SYUD ASGUR ALIAS ASHKER (No. 12,) SHEETABDEE ALIAS SHEETUL SIRDAR (No. 13,) SHEIKH JOMAH (No. 14,) NOWSHA KHAN (No. 15,) ROHOMUT KHAN (No. 16,) TAMSHA GAZEE (No. 17,) MONEER KHAN (No. 18.)

TRIAL No. 3.

GOVERNMENT AND OTHERS

versus

SHEETABDEE ALIAS SHEETUL SIRDAR (No. 19,) ASGUR ALIAS ASHKER (No. 20,) SHEIKH JOMAH (No. 21,) MONEER KHAN (No. 22,) ROHOMUT KHAN (No. 23,) NOWSHA KHAN (No. 24,) TAMSHA GAZEE (No. 25.)

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The prisoners were charged with three separate dacoities and convicted and sentenced by the sessions judge. In appeal all the prisoners but one were acquitted owing to the suspicious character of the proceedings of the police, the illegal detention of the prisoners at the thannah, and the general untrustworthiness of the evidence.

CRIME CHARGED.—*Trial No.* 1. 1st count, Nos. 5 to 11, dacoity in the day-time on the plaintiff's boat, and stealing therefrom property consisting of new clothes, mats and pillows to the amount of Rupees 35-0-6; 2nd count, riotous assault with forcibly plundering property from the plaintiff's boat not amounting to dacoity; 3rd count, prisoners Nos. 5, 6 and 7, knowingly receiving and having in their possession property obtained in the above manner.

Trial No. 2.—Nos. 12 to 18, 1st count, dacoity on the plaintiff's boat and stealing therefrom some cloth valued at rupees 22-12; 2nd count, riotous assault with forcibly plundering property from the prosecutor's boat not amounting to dacoity; 3rd count, Nos. 12 to 14, knowingly receiving and possessing property obtained in the above manner.

Trial No. 3.—1st count, Nos. 19 to 25, dacoity on the plaintiff's boat and stealing therefrom property consisting of

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gold and silver ornaments and cloth to the amount of Co.'s Rs. 14-15 annas; 2nd count riotous assault with forcibly plundering property from the plaintiff's boat not amounting to dacoity; 3rd count, Nos. 19 to 21, knowingly receiving and possessing property obtained in the above manner.

CRIME ESTABLISHED.—Dacoity.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensing.

Tried before Mr. W. T. Trotter, sessions judge of Mymensing, on the 14th April, 1855.

Remarks by the sessions judge.—Trial No. 1. This is a serious case of dacoity committed in the day-time and the circumstances are as follows.

The prosecutor, Neelaram, and Radhoo Sha and Gooroopershad Sha (prosecutors in other two cases) were returning home in separate boats from the *haut* of Madhubdee, where they had gone to purchase cloth and on the 14th Kartick last, at about a *puhur* of the day, as their boats were passing through a large sheet of water called Bakaslea Howur, some eight or ten persons came up to them in a *panswee* boat, and asked for fire and tobacco, which Radhoo Sha gave them, they then came to the prosecutor's boat, and asked for the same which was given, they afterwards went on board and desired him to sell some cloth, and on being refused they forcibly took the cloth they asked him to sell, and also two *dhotees*, upon which a person named Gyanath who was in Gooroopershad's boat gave the alarm and called out to the others to close up and defend themselves. The dacoits then immediately brought out some spear heads, *lattees* and shields from under the chopper of their boat and attacking that of Gooroopershad, began to plunder the boat and took from Nuddear Chand Sha's person a gold *kubuz* and silver chain, and wounded Jadub Patoonee one of the boatmen. Information was at first given at Bunseekoorah thannah in Sylhet, but the magistrate of that district referred the matter to the magistrate of this district, the dacoity having occurred in this district. At first no clue to the dacoity could be discovered, but the prisoners Ashker and Sheetul were brought to the thannah by the villagers of Churrung, where they went to buy *ganjah*, on suspicion of having committed the dacoity, as some spear heads were found in their possession and moreover, they would not state where they lived on being interrogated by witness No. 10, Bassir, and one of their companions, a boy, named Fettah, gave out that they committed a dacoity and were making their escape as the darogah was making enquiries in the matter. The inhabitants of the village also searched their bundles and found in them some new pieces of cloth, two pieces of melted silver and nine rupees in cash. Before the darogah they confessed to having committed the dacoity and implicated

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the other prisoners, and this led to their apprehension, amongst whom Sheikh Jomah admitted the crime. Before the magistrate the prisoners Nos. 5, 6 and 7, repeated their confessions. In this court, they denied all knowledge of the dacoity and Nos. 5 and 6, stated that their confessions were extorted by ill-treatment, No. 7 urged that he confessed through fear of the darogah and with the exception of No. 5, the other two prisoners admitted their foujdary confessions. The other prisoners denied throughout.

As the dacoity was committed in the day-time they were easily recognised by the prosecutor and his witnesses by their appearance when apprehended, and witnesses Nos, 8 and 9, (very important witnesses) state that they were forcibly taken by the prisoners from Doodghat to row their boat on a *shikar* trip as they alleged, who had a good opportunity of witnessing the whole, and they moreover state that after the prisoners had committed the dacoity, they returned to Doodghat and left them (the witnesses) there and went away. Amongst the prisoners witness No. 8, pointed out Nowsha Khan No. 9, Rohomut Khan No. 8, Moneer Khan No. 10, and Tamsha Gazee No. 11, and also recognised Ashker No. 5, and Sheetul No. 6, by their appearance, witness No. 9 stated that he has all along known Moneer, Rohomut, and Nowsha Khan from his infancy and recognised the others by their features. He also heard Moneer call out Tamsha Gazee by name.

Under the above circumstances, considering the evidence against the whole of the prisoners to be quite conclusive as to their guilt, from the fact of the dacoity having been committed in the day-time, whereby there is no reason for doubting that they have been properly identified and some of the property which has been duly recognised as the prosecutors' having been found in possession of the prisoners Nos. 5, 6 and 7, I convict them all of dacoity and sentence them to a consolidated sentence in three cases; No. 8, who has before been imprisoned for seven years in a dacoity case, and three years in a theft case, to fourteen years' imprisonment with labor and irons in banishment, and the others to ten years' each with labor and irons. No. 11, for his defence has examined a number of witnesses to prove that on the day of the occurrence he was at a feast at Azeem Bhooiahs in mouzah Jeiteah, about three or three and half days' distance from where the dacoity was committed, but the distinct manner in which most of them have deposed to that date without knowing other dates convinces me that they have been tutored.

The case was decided by me alone under Act XXIV. of 1843.

Trial No. 2.—This and the preceding case are identical, the dacoity having been committed at the same time and by the same persons. It will therefore be sufficient to state that prisoners Nos. 12, 13 and 14, on being apprehended, confessed to

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having committed the dacoity before the police and implicated Nos. 15, 16, 17 and 18, and part of the plundered property was found in their possession which was duly recognised to belong to the prosecutor and Nuddear Chand Shah. In this court prisoner No. 14, denied both his mofussil and foujdary confessions, and Nos. 12 and 13, although they admitted their mofussil confessions, denied with the others all knowledge of the dacoity; but from the fact of the dacoity having been committed in the day-time, thereby rendering recognition positive, it leaves no room for doubt; I therefore convict all the prisoners of dacoity. For sentence, see Case No. 1.

Trial No. 3.—This and the two preceding cases are identical, the dacoity having been committed at the same time and by the same parties. Although they denied their guilt in this court, the proof against them is quite conclusive, besides Nos. 19, 20 and 21, confessed before the police and magistrate and some of the stolen property was found in their possession and identified as belonging to the prosecutor. I therefore convict them all of dacoity. For sentence, see Case No. 1.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart, and Mr. H. T. Raikes.)

Sir R. Barlow, Bart.—I do not find sufficient ground for conviction of the prisoners, who are charged in these three cases with dacoity by day and receipt of plundered property. Three of them Seetul, Asghur and Jomah, are said to have confessed in the mofussil and before the magistrate. As to the confessions of the two first named prisoners, I place no reliance on them whatever. The prisoners are alleged to have been apprehended on the *5th December*, 1854, and they were sent in to the magistrate on the 9th idem. The offence was committed on the *29th October*, and no trace, whatever, was found of the parties till a man, named Mahomed Busheer, who told three different stories to the mohurrir, the darogah and the magistrate detailing the circumstances of their apprehension, took charge of them, confined them in his own house, and then made them over to a chowkeedar. Busheer heard, as he says, from one Kirtee Narain (who however denies having told him) that Seetul and Asghur had been committing dacoities to the southward and had been beating him. Busheer upon this, though he had no authority whatever, seized them and found in their bundle some new cloth, then and there, with some spear-heads, and upon this foundation, *six weeks after* the occurrence, the prisoners were committed and convicted. In the sessions court Busheer states that these two last mentioned confessed at once to him, a piece of information, which he kept to himself though repeatedly examined at earlier stages of the enquiry.

Mofussil confessions, obtained under the delay and illegal detention, for five days, to which the prisoners were subjected by

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the police, who were unable to give any explanation when called upon by the magistrate, are not to be relied on. A piece of coarse cloth in one case, and a *dhotee* in another, were found on the prisoners, but as the list of cloths and property, said to have been carried off, was not given in, till after the apprehension of the prisoners, but little trust can be placed on it. The cloths are new, and one had been newly coloured to preclude its recognition, and in the sessions court, where the prisoners denied the charge, were claimed by them; the prosecutor also claimed them, and his witnesses swore to their identity, but they are boatmen only, quite incapable of recognizing such articles as new cloths; nor is it at all likely that such should have been exposed to their view. Confessions thus taken after illegal detention of five days by the police, backed even by a confession before the magistrate on their arrival at the station, but unsupported by other independent circumstantial evidence, and after a lapse of nearly six weeks from the date of the occurrence, are not, in my judgment, grounds such as would justify conviction.

The case of the other confessing prisoner No. 7, Sheikh Jomah, who was apprehended on the 14th December only, is the same as that of Seetul and Asghur, *except that he was sent in within the prescribed forty-eight hours;* he was seized on being named by one Rohomut, who again was implicated in Seetul and Asghur's confession. Sheikh Jomah confessed in the mofussil and before the magistrate to dacoity and the receipt of plundered property, in the sessions court to receipt of property only, which however he said was not, to his knowledge, plundered property. I do not believe this part of his story, and I see no reason to interfere with the sessions judge's sentence in his case.

The other prisoners Moneer, Rohomut, Nowsha Khan and Tamsha Ghazee, have all along pleaded *not guilty*, no property was found on them and they have been convicted on recognition only by the boat-people; but it is to be observed that this recognition was first mentioned after the apprehension of the prisoners, that is six weeks after the occurrence of the dacoity. Upon such evidence no reliance can be placed, I would therefore acquit them.

Mr. H. T. Raikes.—I concur in this finding.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

TRIAL NO. 20.

GOVERNMENT AND OTHERS

versus

RADHA BAWOORI (No. 12.)

TRIAL NO. 22.

GOVERNMENT AND ESHUR CHUNDER SINGH

versus

RADHA BAWOORI (No. 13,) GUNGARAM MOOCHEE (No. 14.)

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One prisoner was convicted by the sessions judge in two cases of dacoity, and sentenced to sixteen years' imprisonment. The other prisoner who was convicted in only one case, received a sentence of seven years.

In appeal both prisoners were acquitted.

The Court pointed out the incorrect usage of the term *privity before the fact.* Privity to a felony before the commission of the crime which constitutes the felony is not legal phraseology.

CRIME CHARGED.—*Trial No.* 20. Dacoity attended with wounding in the house of Kessub Chunder and Ram Chunder Kansaree, in which property to the value of Rs. 510-4-17½, was plundered.

Trial No. 22.—1st count, dacoity in the house of the prosecutor, Eshur Chunder, in which property to the value of Rs. 1,359-5, was plundered; 2nd count, receiving and keeping a part of the property knowing it to have been acquired by the above dacoity.

CRIME ESTABLISHED.—*Trial No.* 20. Dacoity.

Trial No. 22.—Prisoner No. 13, dacoity, prisoner No. 14, knowingly having in his possession property obtained by dacoity.

Committing Officer.—Mr. A. J. Elliot, magistrate of Nuddea.

Tried before Mr. C. Steer, additional sessions judge of Nuddea, on the 22nd of March, and 28th April, 1855.

Remarks by the additional sessions judge.—Trial No. 20. This is a trial supplementary to one held before the sessions judge of this district on the 12th March last. The following are the remarks of the zillah judge on that occasion. "At midnight of Tuesday the 19th December, (5th Poos,) this dacoity was perpetrated in Ramnuggur on the premises of Ram Chunder Kansaree and of his cousin Kessub Chunder Kansaree who lived in separate but adjoining houses, by a gang of about two and twenty men. Much property was taken in cash, gold and silver ornaments and other property. A good deal of violence was displayed by the dacoits towards both prosecutor and Kessub, who was wounded on the head by the prisoner Greedhur. On this occasion the prosecutor, Kessub Chunder, a neighbour Bykunto Ghose, and the villagers generally, exhibited a good deal of spirit by facing and attempting to secure the dacoits, and happily Dwarka Singh discharged a gun among the gang as

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they emerged from the plundered premises. The gun was loaded with shot: a dacoit named Dilbur was hit: he lagged behind the others, and was immediately seized.

"The immediate seizure and confession by Dilbur obviously unnerved many of his accomplices. No less than eleven of the gang confessed their complicity in the dacoity both before the police and the magistrate. The darogah of thannah Harora appears to have acted with vigour and celerity. As soon as the dacoity was reported to him, he proceeded to the spot. On the same day 20th December, he took the depositions of the prosecutors, the confession of Dilbur, and short notes of the evidence of the principal witnesses, and forwarded all to the magistrate. The evidence thus available to the identification of some prisoners, who have not confessed, seems to be very unexceptionable, and I now state the conclusion I have arrived at, as regards the guilt of the prisoners.

"I convict the prisoners Madhub, Koylash, Kangalee, Keenoo, Motee Sirkar, Haneef, Amanat, Azeem, Dheba, Sonatun and Janoo on their own confessions. The magistrate was encamped near Ramnugger when the dacoity occurred, and on the 25th December, Azeem (without the instrumentality of the police) appeared before the magistrate and freely confessed the crime. On the 21st December, the four first named prisoners confessed to the darogah, and on the 22nd, to the magistrate, and the others later when they were arrested. In this court they all have repudiated these confessions, but have adduced no evidence to deprive these statements of the free and voluntary character which they bear.

"The prisoners Ramsoonder and Greedhur were leading men in the gang, Ramsoonder was sworn to by two prosecutors, and by the witnesses Ramjoy, Ramchand, Bishonath and Jadoo; and Greedhur by the two prosecutors and by the witnesses Ramjoy, Ramchand, Bykunto Ghose, Bishonath and Jadoo.

"The statements of the two prosecutors and of Ramjoy, Bykunto and Jadoo appeared to me to be peculiarly trustworthy. To this evidence against the prisoners has to be added that of the approver Dilbur; and regarding the insufficient and negative evidence adduced, I convict also these two prisoners.

"Lastly I convict also the prisoner Ruhuman Khan. He is sworn to by the witnesses Ramchand, Bykunto Ghose and Jadoo and by the approver Dilbur, and though it may not be said that the confessing prisoners confess for him as for themselves, it is a fair corroboration of the direct evidence to find that the uniform declarations of his accomplices implicate and do not exculpate him. I am bound to say, that three, apparently, respectable men bore testimony to his respectability, and that two others have professed to have seen him at home on the night of the

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dacoity, but these witnesses appear to me not to invalidate the evidence for the prosecution.

"I acquit the prisoners Shureetoollah *alias* Hoojootoolla, Asruff, Mudun Bawoori and Musst. Bhadoo. The approver Dilbur, and the witness Jadoo alone give direct testimony against Hoojootoolla; only Dilbur against Asruff, and this limited evidence cannot safely be accepted. Nor can I accept the evidence to shew that some part of the prosecutors' property was loosely hid on Hoojootoolla's potatoe field and among Asruff's plantain trees. Against Mudun Bawoori is the evidence only of the approver, and of one witness, and against Bhadoo, mother of the confessing prisoner Haneef, it is only shewn that by her desire she gave up, when told by her son to do so, portion of the prosecutors' plundered garments. She seems to have passed herself at first as the 'Dhurmo' mother of Haneef, but there is no doubt that she actually bore him.

"I give, all whom I convict, fourteen years' in banishment."

Both the prosecutors now depose that they recognised the prisoner on the night of the occurrence, but as his name does not appear in their thannah depositions, or in their depositions given before the sessions court on the previous trial, their recognition of the prisoner at this late stage is not to be relied on as evidence.

However, the *approver*, witness Dilbur Bona, No. 1, named the prisoner from the beginning and has done so on every occasion that his deposition has been taken. He ascribes to the prisoner the important office of having conducted the usual *poojah* in which Kally was invoked to prosper the expedition.

The prisoner who has been a fugitive from the time of the dacoity, admits in his defence, before my court, that he was told a few days before the affair came off, by Madhub and Kylash (both of whom confessed before the darogah and before the magistrate, and who have been sentenced to fourteen years' imprisonment in this dacoity) that a dacoity had been planned in the house of the Kansarees, and that they had come to engage men for it. The prisoner advised them not to join in it, as it would get them into trouble, and then came away. He names witnesses to prove that he was present on the night of the dacoity at an entertainment given by his witness Gooroochurn, No. 6, but this man and all other persons named by the prisoner, deny the fact.

I hold the prisoner to be guilty, Dilbur named him directly he was himself captured and has done so throughout. Every prisoner (and there were many) who confessed to the same dacoity, also implicated the prisoner, and stated that he conducted the *Kally poojah*, on the occasion. The prisoner admits that he was privy to the dacoity before the fact. His implication by Dilbur and his own admission that he had some previous com-

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munication in respect to this dacoity with the parties who perpetrated it, raise a strong presumption of the guilt of the prisoner. That presumption is farther strengthened from the fact that every man who confessed to this dacoity, agreed in saying that the prisoner was present in it, and agreed also in stating that he performed the religious ceremony which is a necessary preliminary to dacoity expeditions.

I convict the prisoner therefore of the dacoity laid to his charge, but as he stands committed in another case of the like nature, I reserve my sentence against him till the conclusion of that trial.

Trial No. 22.—The investigation of the police, conducted on the first report of the dacoity, was a complete failure, and no clue of any kind was elicited. The apprehension of the prisoner No. 13, Radha Bawoori, who had a warrant out against him charged with a dacoity in the house of Kessub Kansaree, was the event which supplied the little success which has been attained towards the discovery of the perpetrators of this dacoity. The prisoner, Radha Bawoori, fled from his house when he learnt that he had been denounced by his associates in the dacoity on the premises of Kessub Kansaree (for the report of which case, see preceding trial No. 20, of this report). The jemadar of Damoorhudda, having had orders to seize him whenever he could find him, was on the look out for him, and at length succeeded in capturing him when he was not in expectation of it. Being on his rounds he found the prisoner seated at a villager's door, asking him for his name, he was told that it was Radha Bawoori, when he immediately knew that he was the man for whom he had been so long in search. On taking him to the *faree*, he said he could supply information as to the parties by whom this dacoity had been committed. At the prisoner's own suggestion that the dacoits might possibly be put upon their guard if he was taken to the thannah, the jemadar conveyed him direct to the magistrate. Before that officer he stated that he accidentally fell in with Gunga Moochee, prisoner No. 14, and three or four other persons carrying about them some property. Going up to Gunga and demanding to see what was inside his bundle, Gunga opened it, and gave him a silver chain. His companions made off as soon as prisoner. went up to them. On this information, the magistrate sent an immediate order to the police to search Gunga's house, and this done, several articles of wearing apparel were discovered in his house, which the prosecutors' servant at once identified as his master's property. The clothes consist of printed cottons and things of that sort which are easy of identification, and have been identified as those of the prosecutor by witnesses examined at the trial. They also appear in the inventory of stolen articles, given by the prosecutor on the first report of the dacoity.

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The prisoner Radha Bawoori, who, as already noticed, admitted being privy to the dacoity after the fact before the magistrate, pleaded guilty before me to both charges. Being asked at the conclusion of the trial whether he had any thing to say in his defence, he states that he knew nothing of the dacoity, that he was inveigled into making an admission of privacy before the magistrate by the promise from the Damoorhudda jemadar that he should be made an approver of, and he received the silver chain from that officer with instructions to say that he got it from the prisoner Gungaram. The prisoner Radha Bawoori states also that when the jemadar took him to the *faree* he saw the clothes, said to have been discovered in Gunga's house, lying exposed in the *faree*.

The defence of the prisoner Gunga is, that he passed the evening of the dacoity (13th Ughun,) in the house of one Goloke Moochee, and that the clothes found in his house were surreptitiously put there by witness No. 10. He called witnesses to the *alibi*, from whose deposition it appeared that the prisoner had gone to Goloke Moochee's house on the 11th or 12th of Ughun, and not on the 13th as stated by him.

I convict the prisoner Radha Bawoori of dacoity on his own plea of guilty before my court, and I sentence him in this, and in the preceding case No. 20, of April, in which he was also found guilty of dacoity, to a consolidated sentence of sixteen years' imprisonment with labor and irons in banishment.

Radhanath's subsequent statement gives some color of probability to Gunga's defence, that the property was introduced into his house by stealth. But that fact is disproved, not only by the testimony of unbiassed witnesses who were present at the search, but because there was not time between Radhanath's apprehension and his production before the magistrate, to concoct and to carry out a dishonest scheme for the conviction of another absent party. The prisoner Radha was caught on the 3rd of March. Early on the day of the 5th he made his confession before the magistrate implicating Gungaram, and that person's house was searched on the 6th *in absence of the police jemadar*, who as Radha would make out, was the party who planned, and was to benefit by, the scheme, which was to convict Gungaram. I convict Gungaram therefore of having in his possession property knowing it to have been obtained by dacoity, and I sentence him to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner, Radha Bawoori, is charged in two cases; in case No. 20, with dacoity and wounding of Kessubchunder, and Ramchunder Kansaree, on the 19th December, 1854, and in case No. 22, with dacoity and receipt

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of plundered property, knowing it to be such, in the house of Issoreechunder, on the 27th November, 1854.

The sessions judge remarks that the recognition of the prisoner by the two prosecutors *now*, is not to be relied on, as his name does not appear in the thannah depositions or in their depositions given before the sessions court in the previous trial. He was however named throughout by an *approver*, Dilbur Bona.

It is stated further, or that the prisoner says, he was told by Madhob and Koylas, two convicts in this dacoity, that a dacoity had been planned in the Kansaree's house. The prisoner advised them not to join it, as they would get into trouble, and then came away. This is considered by the sessions judge an admission of privity to the dacoity before the fact. This is in law no admission whatever to the offence of dacoity; on the contrary, it is a warning to others to abstain from committing it. The prisoner, and those who had come to him, separated; at that time no dacoity had taken place, and the prisoner heard a report only that it occurred some days afterwards. Privity to a felony before the commission of the crime, which constitutes felony, is not legal phraseology; a person is either a principal or accessary to the crime according to his presence or absence, when the act is committed. The evidence against the prisoner is stated by the sessions judge to be that of Dilbur alone, which, with the prisoner's admission above referred to, is said to raise a strong presumption of his guilt; the presumption is strengthened by the confessions of other prisoners. We do not see, in this abstract of the grounds upon which the sessions judge has convicted the prisoner, any sufficient legal evidence to sustain the conviction. The approver's evidence is not supported by any extrinsic proof. The prisoner pleads *not guilty*, and he must be released in this case.

We proceed to dispose of the case No. 22. The prisoner, Radha Bawoori, was apprehended by a police jemadar, when he told him his name. A reward of 50 Rupees had been offered for the prisoner's apprehension, and on the 3rd March, 1855, that is more than three months after the dacoity in Issorechunder's house had occurred, the jemadar chanced to find him at a villager's door; he seized him, and the prisoner, it is alleged confessed to *this* dacoity, *not to the other*, which was the ground of his apprehension. The jemadar took the prisoner direct to the magistrate with a report, dated the 3rd, speaking of his apprehension only, nothing of a confession or of finding property upon him is alluded to in the report, nor is there any proof whatever that the property, a silver chain, was taken from him, yet plenty was at hand in the village and at the door of the house, where he was sitting. The prisoner before the magistrate confessed to receipt of the chain from No. 14, also convict-

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ed. At the sessions, he not only confessed to receipt of the chain, but also to the actual dacoity, when called upon to plead to those charges; but shortly after, when required to state his defence, denied the charges, and said he had been tutored by the jemadar, who promised him a reward, and also to have him released. The apprehension of the prisoner, in the manner shewn, his confession to the jemadar, and the finding of the property carried off more than three months previously, regarding which the jemadar was altogether silent, though he thought the capture of such importance that he at once went to the magistrate direct with him, are not to be relied on as evidence; and his alleged verbal confession to the jemadar, for it was not reduced to writing, unsupported by corroborative testimony, is very unsatisfactory. The plea of guilty, recorded at the commencement of the prisoner's trial, has not weight with us, opposed as it is to his detailed defence in denial of the charge and to the probabilities of the case.

The sessions judge has sentenced the prisoner in the two cases to sixteen years' imprisonment with labor and irons. For the reasons above stated, we acquit the prisoner and order his immediate release.

The conviction of prisoner No. 14, rests upon the production of some cloths, not concealed, but bound in a bundle, lying in an exposed place. The cloths are of an ordinary kind, and were recognized in the lump by the prosecutor and his witness, without any distinguishing mark. This is reported also to have taken place more than three months after the dacoity, and is not trustworthy. We acquit this prisoner also and order his release.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BUNOMALEE MOCHEE
versus
HALLA ALIAS CHUNDER NIKARI.

Nuddea.

1855.

July 19.

Case of HALLA *alias* CHUNDER NIKARI.

The prisoner who had evaded apprehension on a charge of highway robbery for nearly two years, was convicted and sentenced to ten years' imprisonment.

Appeal rejected.

CRIME CHARGED.—1st count, highway robbery with assault, battery and severely wounding the person of Bunomalee Mochee and robbing him of cloth and cash, value rupees 15; 2nd count, committing an assault and battery and severely wounding the aforesaid Bunomalee on the highway and snatching from his person the abovementioned cloth and cash.

CRIME ESTABLISHED.—Highway robbery.

Committing Officer.—Baboo Issurchunder Ghosal, deputy magistrate of Santipore, Nuddea.

Tried before Mr. C. Steer, additional sessions judge of Nuddea, on the 27th April, 1855.

Remarks by the additional sessions judge.—This is a supplementary trial to one held by the sessions judge of this district on the 23rd July, 1853. The case is published in pages 615 and 616, of the Nizamut Adawlut reports for 1853. The following is the judgment of Sir R. Barlow, Bart., upon the trial. "The prisoners were named immediately by the prosecutor, whose arm they broke, as well as by those who were accompanying him, when taken into the village of Deegnuggur where the robbery took place. They were again named before the police the next day and were not forthcoming for some time after they were charged with the offence. Before the magistrate and the sessions judge, they were indicated as the persons who committed the assault and the robbery, and during the course of the enquiry and the trial, have been unable to shake the evidence for the prosecution; prisoners Nos. 1, 2 and 3, father and his two sons, endeavour to establish *alibi*, but the witnesses were not credited in the court below. They also urge the enmity of some influential landholder, which has been exercised through the prosecutor for their conviction. On this point they summoned no witnesses."

The prisoner now at the bar was also named from the beginning by the prosecutor and his witnesses,* and the prosecutor avers that it was the prisoner who broke his arm. He has been identified as the Halla, or Hullodhur, made mention of in the former depositions. He is the son of Devie and the brother of Nobaie and Kylas who were all sentenced upon the same charge in the former trial, and it has been satisfactorily proved by near

* Nos. 6, 7, 8.

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neighbours of the prisoner, and who have known him and his family for years past, that his name is Halla, or Hullodhur, and that he never was called Chunder, and that he fled from the homestead which he had jointly occupied with his father and brothers, when they were apprehended upon the charge on which the prisoner himself is now arraigned. His defence is, that his name is Chunder, that Halla or Hullodhur was the name of his elder brother of whom he has long lost sight, that his mother having died while he was an infant, he was taken and brought up by his sister at her house in zillah Hooghly which has been his home ever since, and that he never did live with his father and brothers in their home in Deegnuggur. After calling one witness whose testimony was in almost direct variation from his defence, the prisoner refused to have any more of his witnesses examined.

The *futwa* of the law officer convicts the prisoner of highway robbery and I sentence him to ten years' imprisonment with labor in irons in banishment, being the same sentence as that awarded to the prisoner's accomplices in the former trial.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner was named from the first and has evaded apprehension up to the present time. He endeavours to prove that he is not the person named, and for that purpose has assumed an *alias* Chunder. His witnesses, however, contradict his plea and swear to his identity under his own name Halla Nikari. We reject the appeal and confirm the sessions judge's sentence.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND MUSST. BUTCHEEA

versus

BOODHEE AHEER (No. 2,) AND CHINTAMUN AHEER (No. 3.)

Shahabad.

1855.

July 20.

Case of BOODHEE AHEER and another.

The prisoners were acquitted of rape, the evidence for the prosecution being insufficient for conviction.

CRIME CHARGED.—Rape on the person of Musst. Butcheea, the prosecutrix.

Committing Officer.—Lord Ulick Browne, officiating magistrate of Shahabad.

Tried before Moulvee Rooknooddeen Khan, officiating sessions judge of Shahabad, on the 30th June, 1855.

Remarks by the officiating sessions judge.—The case stands thus:—that the prosecutrix, a resident of mouzah Bhimwar, pergunnah Peroo, went on the 1st April, 1855, to the jemadar of *chowkee* of Peroo, and deposed before him that Sateeput Aheer (absent), and Boodhee and Chintamun Aheers (present), residents of the aforesaid village, took hold of her yesterday on her way at a distance of half a mile from the beforementioned village, and that taking her to an Ahir (or a field-reservoir for collecting rain water), each of the three defendants, one after the other, violated her person there.

The magistrate, on a perusal of the report of the jemadar of *chowkee* of Peroo, summoned the prosecutrix and witnesses and proceeded to investigate the case.

The averment of the prosecutrix before the criminal court was that Sateeput Aheer had dishonoured her, and Boodhee Aheer gagged her mouth, and that Chintamun Aheer was then standing by. That as soon as Sateeput Aheer had known her carnally, Boodhee Aheer dishonoured her, and that the witnesses hearing her screams apprehended Boodhee and Chintamun Aheers on the spot, and Sateeput Aheer made his escape.

The prosecutrix supported her deposition taken before the magistrate in this court, and stated the fact of rape having been committed on her person by Sateeput Aheer (absent) and Boodhee (present.) She averred that Chintamun Aheer was standing on the spot, that the defendants present were instantly apprehended, and that the witnesses had seen the three defendants when they made good their escape and not when they were committing a rape on her person.

Jan Aheer and Dilla Dosad, eye-witnesses to the cause of prosecution, distinctly state in their depositions, that they saw Musst. Butcheea prosecutrix, from the border of the field-reservoir lying flat on her back in a state of nudity, that Sateeput

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Aheer (absent) had loosened his waist cloth and taken hold of her legs. That he was committing rape on the person of the prosecutrix, while she (prosecutrix) was lying down and screaming, and that the private parts of their bodies were in actual contact with each other. That at the time of commitment of the crime, Boodhee Aheer (present) had taken hold of the arm of the prosecutrix, that Chintamun Aheer defendant (present) was standing on the spot, and that while he was watching the approach of the witnesses, Boodhee and Chintamun Aheers defendants (present) were apprehended by them, but Sateeput escaped.

Bhoola Aheer, cognizant of the instance of the case, (whose name is mentioned in the magistrate's calendar) has deposed before the magistrate that he was standing behind Dilla and Jan Aheers, and had had seen them from a distance apprehending Boodhee and Chintamun Aheers, while Sateeput Aheer was making good his escape. This witness has deposed before this court as an eye-witness to the case, and his deposition taken in the criminal court being at direct variance with that taken in this court is unworthy of credit. There is some discrepancy between the averment of the prosecutrix and the deposition of the eye-witnesses. She (prosecutrix) states that the witnesses had seen the defendants when they were making good their escape and not at the time of debauching her, while the aforesaid witnesses deposed to their having personally witnessed the commission of crime. But this inconsistency is not prejudicial to the proof adduced in the case, since it clearly appears that the prosecutrix was lying flat on her back in a helpless position in the field-reservoir (which was in depth a full man's size), that she was screaming there and Sateeput Aheer (absent) had mounted on her person and was committing rape on her, and as the witnesses had seen from the border of the reservoir, it is not improbable that she, the (prosecutrix) should not have seen them at that time.

Boodhee Aheer, defendant, pleads *not guilty* and avers in the support of this plea that a buffaloe of Sateeput Aheer having entered the field of Ramsoonder Oopadhea, close to the spot where the prosecutrix was gleaning some spikes of grain, high words and slanderous tongue ensued between the prosecutrix and Sateeput Aheer, whereon he (Boodhee) prohibited them to do so.

Chintamun Aheer (defendant) pleaded *not guilty*, and urged in his defence a total disclaimer of the facts of the case.

Both the defendants had adduced two witnesses for the substantiation of their averments respectively, but they denied all knowledge of the case.

The crime charged in the calendar is established in the finding of the assessors.

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Case of BOODHEE AHEER and another.

It appears clear from the deposition of the eye-witnesses (given above) and the probabilities of the case, that Sateeput Aheer defendant (absent) had committed rape on the person of Musst. Butcheea and that Boodhee Aheer and Chintanun Aheer (present) were abetting and assisting Sateeput Aheer defendant, (absent), in and at the time of the perpetration of the crime.

Under these circumstances, Boodhee Aheer defendant No. 2, and Chintamun defendant No. 3, are in my judgment guilty of being accomplices in and at the time of the commission of rape on Musst. Butcheea, prosecutrix, and to meet the justice of this offence, each of them is liable to be imprisoned for a term not exceeding (5) five years with labor in irons.

The transmission of the case being necessary with reference to Section 6, Clause 3, Regulation XVII. of 1817, for the issue of final order, the record together with all other proceedings of the case is accordingly forwarded herewith to the authorities of the Nizamut Court, and it is to be observed that Boodhee Aheer (defendant) has stated his age twenty-two in the criminal court and sixteen before this court, whereas he appears to be a full grown man of twenty-six years of age.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We do not believe there is any truth in this case. The prosecutrix at the thannah charged the three prisoners with having successively had forcible connexion with her. Before the magistrate she said two only had, while before the sessions court she said only one had, but on cross-examination as to her different statements, she repeated her story as given before the magistrate that she had been violated by two. Her witnesses however say that when they came, the person they saw in the act of coition was Sateeput, who was the man throughout named by the prosecutrix as her first ravisher. It is therefore improbable that Boodhee would have committed the act subsequently as alleged. This material discrepancy in the evidence throws such doubt upon its credibility, that we cannot convict the prisoners and direct their release.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT PROSECUTOR

versus

MIRZA KULLOO, (No. 1.)

Patna.

1855.

July 20.

Case of MIRZA KULLOO.

Appeal dismissed.

CRIME CHARGED.—Perjury in having on the 16th April, 1855, deposed under a solemn declaration taken instead of an oath before the officiating judge of Patna that he never made any deposition in the collector's office calling in it his father's name Abdoolla. Such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 1st June, 1855.

Remarks by the officiating sessions judge.—The prisoner was the complainant in a summary civil suit under Act XIX. of 1841, in which he claimed the property of Mirza Mahommed Nubbee, deceased, as the said deceased's son. He had previously in 1850, in the collector's office, filed a deposition (without oath) calling himself the son of "Abdoolla." While the Act XIX. of 1841 case was pending, the prisoner's deposition was (a second time) taken on oath in this point, when he denied deliberately having ever made any deposition of any kind in the collector's office, calling his father "Abdoolla" or otherwise; and it having been proved that such denial was false by the evidence on oath of Meer Wahid Ally and Moteeram, who attested the said deposition before the collector, and who have now recognized the prisoner as the maker thereof: the prisoner was at once ordered by me to be committed for the wilful and deliberate perjury before me in the Act XIX. case on the point *most* material to the issue of the case. *After* the order of commitment, the Act XIX. case was dismissed. The prisoner cannot point out any other Mirza Kulloo, in the same *mohulla;* and his defence that some one in 1850, was made to personate him, giving the name of his father wrong, with a view to his future detriment, is altogether beyond belief. His statement on oath in the civil court is attested by a witness the writer thereof.

The witnesses to the defence first summoned were said by the prisoner not to be the persons he meant. Further search was then made; and on the 1st June, 1855, (the trial having been commenced on 28th May, 1855,) three of the four were pro-

duced. They not only do not clear the prisoner, but two of the three rather involve him in further falsehoods. 1855.

In concurrence with the law officer, I convict the prisoner of perjury in swearing on the 16th April, 1855, that he did not make the statement which he did in 1850, before the collector, and I sentence him to imprisonment with labor for three years from this date. July 20. Case of MIRZA KULLOO.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to interfere with the conviction and sentence; the prisoner has stated nothing in his appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

ENSIGN WALLER, 40TH REGIMENT N. I.

versus

GOORSURUN DASS.

Patna. 1855. July 20. Case of GOORSURUN DASS.

CRIME CHARGED.—Forgery in altering the amount of an order given to him by prosecutor.

CRIME ESTABLISHED.—Forgery in altering the amount of an order given to him by prosecutor.

Committing Officer.—Lieutenant R. R. Harris, cantonment joint-magistrate, Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 11th May, 1855.

The charge of forgery held, not to be proved, as the prisoner's conduct did not favor the presumption that he could benefit by it.

Remarks by the officiating sessions judge.—The forgery in this case is clear enough; viz., that ten rupees was altered to twenty rupees, but is there proof that it was committed by the prisoner?

The evidence shows and the prisoner admits, that he got the letter and order at 6 P. M. on 26th April, from the prosecutor, and that an hour afterwards (the distance being only ten minutes' walk) he delivered it to his master, Mr. Davis, who at once opened the letter and made it over with the enclosed order to another servant Buhadoor, to collect upon the next morning, saying *it was for twenty rupees.* Thus there were only two people who by the prisoner's admission *could* have made the alteration, the *prosecutor and himself.* I lay but little stress on the *ink*, but the writing of the "ty" in the cheque is certainly very like the prisoner's writing in the account book produced, and admitted, and sworn to be his.

The prosecutor could have no object in giving an order for more than he had in the pay Havildar's hands, and 2ndly, he

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* Case of GOORSURUN DASS.

would not have altered his cheque so clumsily, but re-written it, whereas it appears from the evidence of Mr. Davis, that the object of the prisoner might have been and probably was this. The prosecutor's letter enclosing the cheque was not fastened, and the prisoner who understands and writes English, doubtless opened it before he gave it to his master. He then altered the cheque only, intending to get twenty rupees on it from the pay Havildar and to pay his master ten rupees *the amount in the letter;* but finding the pay Havildar absent or unwilling, or unable to pay him twenty rupees, he was necessitated to alter the prosecutor's letter also (and it has been as clearly altered as the cheque) from ten to twenty rupees, thus resigning all chance of gain *that* time by his dishonesty.

I convict the prisoner on strong circumstantial evidence and in concurrence with the verdict of the jury (whom I summoned on account of the deed, and papers being in English, and who are conversant with English and with English accounts) of the crime charged against him in the calendar, and I sentence him to five years' imprisonment with labor and irons; the labor to be suited to his habits and profession.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The draft is made payable to bearer, and the sessions judge infers that the prisoner with the view of appropriating to himself the sum of ten rupees altered the draft from ten to twenty rupees, but finding the pay Havildar absent or not willing to meet the draft of twenty rupees, the prisoner found it necessary to alter the note of advice also, so as to make the amount therein tally with the draft, and in that state delivered both to his master. One circumstance however is wanting, and without it the sessions judge's inference falls to the ground, viz. proof of some sort that the prisoner either applied to or attempted to see the Havildar. Without this, there is nothing on which to base the presumption taken by the sessions judge.

The case merely shows that the prisoner received the draft and the note from Ensign Waller and gave them to his master; the alteration of the draft, without any attempt on his part to procure the forged amount is quite unaccountable and leads to no conclusion against him. We must acquit the prisoner on failure of proof against him.

PRESENT:

J. H. PATTON, Esq., *Judge.*

GOVERNMENT
versus
TEENCOWREE BAGDEE.

Hooghly.

1855.

July 20.

Case of TEENCOWREE BAGDEE.

The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Sekor Roy, deputy magistrate, under the commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 14th June, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits.

He was a peon in the office of the judge of Hooghly. Being seen by an approver in the judge's court, when the latter went there to give evidence, the approver denounced him to the serishtadar of the dacoity commissioner, who taking the prisoner to his superior, with the permission of the judge, he confessed six days afterwards that he had, at different times, committed several dacoities.

There is no evidence against him, but such as he himself furnishes in his own free and voluntary confession, and the corroboration that confession receives from the records of investigation connected with some of the cases confessed to.

The confession is proved by the testimony of the two witnesses before whom it was recorded, and is placed as evidence upon the record of the trial before the sessions.

The prisoner's detailed confession contains the particulars of eleven different dacoities. These are—

1st. A dacoity in the house of a Sudgope of Damas, seventeen or eighteen years ago.

2nd. A dacoity in the house of an Augooree of Augooree Simlea, seventeen or eighteen years ago.

3rd. A dacoity in a Ghosal's house of Kalsee, seventeen or eighteen years ago.

4th. A dacoity in the house of Raichurn Dut of Mobaruckpoor, sixteen or seventeen years ago.

5th. A dacoity in a Sodgope's house of Khyrpoor, five or six years ago.

6th. A dacoity in the house of Sumbooonath Ghosal of Dadpoor, on the 24th June, 1846.

7th. A dacoity in the house of Judoo Kamar of Boorkoonda, three years ago.

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8th. A dacoity in the house of Muddoosoodun Odeekaree of Mamaree, on the 21st December, 1851.

9th. A dacoity in the house of a *Dhoby* of Ishabasa, about five or six years ago.

10th. A dacoity in the house of a Sudgope of Chota Damas, about six years ago.

The calendar states that the prisoner confessed to eleven dacoities, but this is a mistake. He knows who committed the 11th dacoity, but he took no share in it himself.

Of the above specified dacoities, there is no trace to be found, of eight in the records some were perhaps never reported, and the papers of the rest have been burnt. The 6th and 8th dacoities were regularly investigated, in the 6th some persons were recognised and committed to the sessions, but what became of them there, the record does not shew, and in the 8th the parties recognised were released by the magistrate.

There is nothing in any of these cases to connect the prisoner with them.

He pleads guilty to the charge in his trial at the sessions, admits the confession given by him to the dacoity commissioner and declines to make any defence.

I would convict the prisoner on his own confession of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) I convict the prisoner on his plea of guilty before the commissioner, for the suppression of dacoity, and the sessions court, and sentence him, as recommended, to transportation for life.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND KULLOO MISSER PROSECUTOR

versus

MOONEEA.

Patna.

1855.

July 20.

Case of MOONEEA.

What the charge should have been pointed out.

CRIME CHARGED.—1st count, highway robbery and theft of a gold chain valued at Rs. 256-8; 2nd count, assault and snatching of a gold chain valued at Rs. 256-8 from the person of the plaintiff.

CRIME ESTABLISHED.—Theft (or robbery) with assault (or violence.)

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 10th April, 1855.

Remarks by the officiating sessions judge.—As the prosecutor was proceeding home from his uncle's house in Mohullah Jhow Gunge, city of Patna, and had reached Chimnee Ghaut (where he stopped for a moment to make water) with his servant Balaki Kahar carrying a light, he was set upon and robbed by a set of thieves, armed and threatening further violence (than a blow of a club and throwing down the prosecutor) if resisted, and of these the prisoner has been proved to have been a foremost man. In concurrence with the law officer I convict him of theft (or robbery) with assault (or violence) and sentence him to seven years' imprisonment, in all (being five years and two years in lieu of corporal punishment) with labor and irons in banishment.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no ground for interference, but with reference to the sessions judge's conviction, we remark that the Court have already, in the English* department, brought

* Extract (paragraph No. 1,) from a letter from the Register of the Nizamut Adawlut to the officiating sessions judge of Patna, No. 482, dated the 1st June, 1855.

" The Court having had before them your letter of the 15th ultimo, submitting the statements as per margin,* connected with the sessions of jail delivery held by you in the month of April last, and referring to your finding in the case of Mooneea No. 5, of statement No. 6, " theft (or robbery) with assault (or violence)," observe that this form of finding is irregular. They request that you will state precisely the crime which you hold to be estab-

Nos. 1 to 5, Statements of persons brought to trial, &c.
" 6, Statement of prisoners punished.
" 8, Statement of prisoners acquitted.
" 10, Calendar of trials, postponed. Futwas of the law officer.

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to his notice that the crime proved is provided for by Section 3, Regulation LIII. of 1803, and the conviction should have been for robbery by open violence. We reject the appeal.

lished; and you should also detail in your remarks in column No. 13, the nature of the evidence upon which the conviction of the prisoner is grounded, whether upon production of property from his possession or upon recognition at the time of the perpetration of the crime."

Extract (paragraphs Nos. 1 and 2,) from a letter from the officiating sessions judge of Patna to the Register Sudder Nizamut Adawlut, No. 41, dated the 16th June, 1855.

"In the case of 'Mooneea' there were 2 counts to the charge as per margin,* and it struck me that neither of them literally met the case, which I considered one of 'robbery with violence' but which might be considered the same as a 'theft with assault.' Hence the crime detailed as in the calendar with my definition or construction of it in brackets. There was no 'highway robbery,' the crime having been committed in a town within hearing of the inhabitants; and 'theft of property from the person,' or whilst it is under the protection of the person by means either of violence or putting in fears was, I thought, in legal language always formally styled 'robbery with violence,' and never 'theft with assault.'

* 1st. Highway robbery and theft of a gold chain valued at Rs. 256-8.
2nd. Assault and snatching of a gold chain valued at Rs. 256-8 from the person of the plaintiff.

"My remarks on this case are, I admit, far too meagre. The evidence was the recognition of the offender at the time of the perpetration of the crime by the prosecutor's servant, who was with him and by others who came up as the prisoner (with others) was running away. I took down in English at the time verbatim a translation of the depositions, and will, if the Court wish it, furnish them from my note book with a fuller history of the occurrence. There has been another trial since in the same case in which I have given more detailed remarks on the evidence."

Extract (paragraphs Nos. 1 to 5,) from a letter from the Register of the Nizamut Adawlut to the officiating sessions judge of Patna, No. 525, dated the 25th June, 1855.

"I am directed by the Court to acknowledge the receipt of your letter No. 41, of the 16th instant, submitting explanations in reply to the Court's remarks on the jail delivery statements for April last.

"With reference to the remark that there was no highway robbery because the crime was committed in a town, the Court observe that you will in comparing Section 3, with Section 5, of Regulation LIII. of 1803, perceive the distinction laid down by the law between the offence of secret theft or larceny without open violence, and the major crime which the prisoner and others are stated to have committed in the column of remarks, statement No. 6. 'The prosecutor was set upon and robbed by a set of thieves, armed and threatening further violence (than a blow of a club and throwing down the prosecutor) if resisted.' Such is the detail given by you.

"This is strictly robbery by open violence *in a city* in the very words of Clause 1, Section 3.

"If you thought that the charge against the prisoner was undefined or legally deficient in its terms, it was competent to you to direct the magistrate to amend it.

"No doubt, the charge was improperly worded, as there was no *theft* of the gold chain valued at Rs. 256, when it was carried off *vi et armis* from the prosecutor's possession by a number of persons in the city of Patna."

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

SHUSTEE ALIAS POCHA BAGDEE.

Hooghly.

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Case of SHUSTEE *alias* POCHA BAGDEE.

Prisoner's confessions strongly corroborated by other proofs, therefore convicted and transported.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Sekur Roy, deputy magistrate under the commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 14th June, 1855.

Remarks by the additional sessions judge.—The accusation against the prisoner was admitted by him the very day of his arrival before the dacoity commissioner, to whom he gave a full detail of eight dacoities. Of these, there are records of five, and they shew that those dacoities did really take place.

No witnesses were produced in support of the charge, but the witnesses to the prisoner's confessions, who have deposed that he confessed freely and voluntarily. The attested general confession was then read and placed on the record of the sessions trial as evidence.

The prisoner pleads guilty before me, admits his confession before the dacoity commissioner, and declines to say any thing in his defence.

Convicting the prisoner Shustee *alias* Pocha Bagdee, of having belonged to a gang of dacoits, I recommend that he be sentenced to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The prisoner admitted crime when first taken before the commissioner for the suppression of dacoity, and gave a full detail of several dacoities in which he had taken part. He had been previously convicted of dacoity, and sentenced to ten years' imprisonment. He was released in 1852, and was denounced by a notorious dacoit in his confession, and stated to have been wounded in a dacoity in 1854, which wound, when apprehended, he shewed. He subsequently repeated his confession before the sessions judge, and there seems no doubt that he is a professional robber. We convict him of the crime charged and sentence him to transportation for life.

PRESENT:

SIR R. BARLOW, BART., H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND DOBAGGO

versus

POORAH NODIAL (No. 1,) KISTOKANT RAJBUNGSEE (No. 2,) DOMASHOO RAJBUNGSEE (No. 3,) GORACHAND (No. 4,) MAGON (No. 5,) BOISAGOO (No. 6,) AND SOOROO RAJBUNGSEE (No. 7.)

Assam.

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Case of POORAH NODIAL and others.

Out of six prisoners convicted of burglary attended with wilful murder, two were selected for capital sentence as actual perpetrators of the murder on the statements of their associates.

CRIME CHARGED.—1st count, dacoity attended with murder; 2nd count, Nos. 4 to 6, receiving stolen property knowingly; 3rd count, No. 7, accessary before and after the fact.

Committing Officer.—Captain W. Agnew, magistrate of Gowalparah.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 9th May, 1855.

Remarks by the deputy commissioner.—The magistrate gives the following account of the manner in which the crime was brought to light and the prisoners apprehended.

"On Wednesday morning, the 14th of February, the door of the prosecutor's house was observed by the witness, Lahoi, and Kalamonee to have been cut off from its fastening, which occurrence they mentioned to the witness, Banoo, who told Dymullah, the mother of the prisoner, Kistokant, whose house adjoined the prosecutor's. Dymullah it seems went and gave information to Mora Sircar, an influential person in the neighbourhood, and to the witness, Dookoo, both of whom came to the spot and found the prosecutor's mistress, Bany, lying dead within her house, and evident traces of the double crime of murder and robbery having been committed. On their way to the thannah, about quarter of a mile distant to give information, these people met the assistant magistrate, who, in company with the darogah, immediately proceeded to the spot, and an investigation was at once commenced, in the course of which the darogah learnt that four persons of disreputable character, named Domashoo, prisoner, No. 3, Gorachand, prisoner No. 4, and the witnesses, Monee and Doiaram, had started for the Nibaree market, but returned, under suspicious circumstances, which fact, together with the known bad character of these individuals, induced the darogah to apprehend them, and on questioning Domashoo about his return, he alleged that a friend named Boisagoo, prisoner No. 6, having been arrested for debt, he and his companions had come back to relieve him from his difficulties, this, the darogah says, led him to suspect Boisagoo, and he had him

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arrested, as also Poorah and Magon, prisoners Nos. 1 and 5, to whom suspicion attached, on account of their being in the habit of associating with Domashoo and the others. The darogah states that from the same cause, he also suspected Soroo, prisoner No. 7, but did not capture him, as he was ill. I shall shew, however, presently that this person was not arrested through the darogah's intervention.

"On Wednesday evening, I came into the station from the mofussil, and the following day heard of Bany's murder. I immediately sent for the foujdary *sherishtedar*, a very zealous and efficient officer, to enquire into the circumstances of the case, and learnt from him that there was no proof against any one, but that some people had been taken up on suspicion. I told him I would pardon and admit as Queen's evidence any one implicated, who would give evidence to lead to the capture of the other criminals, provided he himself was not actively concerned in the murder, and I directed the *sherishtedar* to watch the thannah proceedings, the darogah being a very indifferent officer, and also to gather whatever information he could from all quarters, as active and immediate measures alone would afford a chance of discovering the offenders. I also ordered that Kistokant, who, in the absence of the deceased's protector, had been made prosecutor by the darogah, should be arrested, as I thought it singular, that neither he nor any of his family should have been disturbed when the crime was perpetrated, as his house immediately adjoins the prosecutor's dwelling.

"That day (Thursday) the mothers of Monee and Doiaram went to a *mooktar*, called Robiram, to ask him to go security for their children, and the following morning, this person told the *sherishtedar* that he thought if the women were sent for and had speech of their sons, something might transpire. They were accordingly called, and the result was that the *sherishtedar*, as I had instructed him, held out promise of pardon to the men (or youths I should say, for although they have given their ages as twenty and twenty-two years, their appearance is that of lads of seventeen and eighteen,) if they had not positively helped to kill the woman, on condition of their making a full and true confession, they at once requested they might be brought before me, and on being so, disclosed how the robbery had been planned and executed, and all that they knew regarding the woman's death implicating all the prisoners, except Soroo No. 7, I then ascertained that the darogah had liberated Boisagoo, Poora and Magon, whose recapture, I ordered. In the mean time sending for Gorachand, Domashoo and Kistokant, who were in the thannah, Gorachand was the first questioned, and on being asked if he had been concerned in the crime, at once confessed, evincing the greatest trepidation, the other two prisoners firmly denied their guilt. I then proceeded,

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accompanied by Mr. Beckett, who had assisted me throughout, to Gorachand's house to search for the ornaments he had in his possession, which he discovered to us under one of the supports of the *tattee* of his compound, we also searched the houses of the other prisoners and found one of the stolen cloths secreted in a dust hole in Boisagoo's premises. By the time we returned to the thannah, Boisagoo, Poora and Magon had been apprehended, I questioned them as to their participation in the crime, which they denied, and I returned home, but about an hour afterwards, got a message to say they had made a full confession, as also Domashoo and Kistokant, and that Boisagoo had implicated Soroo, prisoner No. 7, and this I believe was the first intimation given of his being an accessary, I accordingly ordered his arrest, but he denied any knowledge of the affair and has professed his innocence throughout; the other six prisoners have adhered to their thannah confession, both in the foujdary and before the jury, as far as regards the robbery.

It appears from the prosecutor's depositions* that he had gone to attend the Nibaree *hat* and was absent, when the crime was perpetrated, but returned home as soon as he heard of it from Koodoo, who told him his house had been broken into, his mistress murdered, the lock of his chest forced, and the contents plundered, and found it so next day; on going to the thannah, he found the prisoner No. 3, Domashoo, Kistokant No. 2, Gorah No. 4, Boisagoo No. 6, with Dyaram and Monee in arrest, while there, the foujdary *sherishtedar* and Koobe Moonshee arrived with the mother of Doya, who advised her son to reveal all he knew. He consented, but desired that his revelations should be made direct to the magistrate, and Monee, on like advice, expressed a similar wish. Both were taken to the magistrate's house on the Hill and made their statements, naming Poorah No. 1, Domashoo No. 3, Kistokant No. 2, Magon No. 5, Boisagoo No. 6, Gorah No. 4, and Soroo No. 7, as the persons engaged, after this, Poorah No. 1, Magon No. 5, and Soroo No. 7, were apprehended, and all except Soroo No. 7, made confessions; that the magistrate accompanied Gorah to his house, where he gave up four gold ornaments, four silver bracelets, and a *mothee karoo*, but prosecutor was not present when these articles, which he afterwards recognized as part of the stolen property, were delivered up. On Boisagoo's premises, under some rubbish, was discovered an old *dotti* which he also recognizes as an article, No. 5, of the stolen property, Rs. 130, and some articles which he first included in his list of stolen property, were, on examination of the house, found, the former hid in the ground, and the latter under the chest. He describes the deceased, Bany, as his mistress, to have been a hale and well behaved woman of from twenty-five to thirty years of age.

* Prosecutor's depositions.

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The prisoners pleaded as follow.

No. 1, Poorah. Pleaded *not guilty* to the murder and robbery, but generally to having accompanied the others, and to cutting through the Tattee.

No. 2, Kistokant. Pleaded *not guilty* to the murder and robbery, but guilty to having joined in concerting the robbery and going with the others.

No. 3, Domashoo. Pleaded *not guilty* to the murder, but guilty to the robbery, but not to the amount stated.

No. 4, Gorachand. Pleaded *not guilty* to the murder, but guilty to the robbery, and to having possession of the stolen property.

No. 5, Magon. Pleaded *not guilty* to the murder, but guilty to having gone with the others to commit the robbery, and adds that Poorah No. 1, the same night confessed to having committed the murder.

No. 6, Boisagoo. Pleaded *not guilty* to the murder, guilty to the robbery, and to receiving an article of the stolen property discovered on his premises.

No. 7, Soroo. Pleaded *not guilty* to the charge of being an accessary before and after the fact.

Witnesses No. 1, Monee.
,, ,, 2, Doyah.

The two young men, who were pardoned by the magistrate and admitted as Queen's evidence, depose to having been on their way to Nibaree *hat* in company with Gorah, when they were induced by Boisagoo to return to assist in the robbery, which had been preconcerted for some time, that they accompanied him to the house of Soroo No. 7, where they played at cards with him, Domashoo, Magon and Poorah, while there a visit from Moya Sircar for rent, for a time suspended their deliberations, towards evening they went home for their clothes, but were recalled by Boisagoo and accompanied him to Manick Khal, where in a consultation with Boisagoo, Magon, Domashoo, Gorah and Poorah, it was settled that the robbery should take place that night, and that after dinner they should meet at Gorah's house, but murder formed no part of the plan, they accordingly one by one assembled at Gorah's house, where providing themselves with a knife and a pair of forceps, they set out; when they reached the bridge they were deputed to go to Kistokant's for tobacco, and there they were shortly after joined by the prisoners from the bridge. Kistokant told them he had ascertained that the

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deceased had been at work husking a large quantity of paddy and had fallen into a deep sleep. The prisoner Poorah then went and cut away the back *jhamp* or door of Dobagoo's house, and which was over against the chest, while the witnesses were stationed outside, to watch and give the alarm, the other six, namely, Domashoo, Gorah, Magon, Kistokant, Poorah and Boisagoo, went in and robbed the house, but what occurred inside they did not see. On reaching the bridge, the prisoner Poorah, rubbed his hands on the grass, expressing an opinion that the woman might be dead, but on being questioned, replied it would be known on the morrow, and Magon, Gorah and Domashoo, described how the chest had been opened, while Kistokant, Boisagoo and Poorah told how they had violated the deceased, that to prevent confession and for the after division, the stolen property was given in charge to Gorah, Poorah retaining a cap, and Magon, the piece of cloth, while the bundle for fear of its contents leading to detection was left at the bridge. Kistokant and Soroo had for some time been planning the robbery, and Kistokant had spoken to them about it, Soroo being ill, he was not present. That the deceased was not in ill-health at the time, and Monee says he had heard from Kistokant that he had had an intrigue with her, while Doyah says that he heard of this attachment from Musst. Kandoree, he (Doyah) heard no cry or any sound of struggles, only the noise of the attempts to force the padlocks on the chest.

No. 3, Dookoo.
,, 4, Bhohoorah.

The witnesses, Nos. 3 and 4, depose to the prosecutor being at Nibaree *haut* on the night on which the crime was perpetrated, next morning on the intimation of Musst. Dymullah, the mother of the prisoner No. 2, they went to the prosecutor's house, where they saw the door open, the *tattee* cut through, and the dead body of Musst. Bany lying on a *setringee* with face upwards and naked, they then went with Myaram Sircar to give notice at the thannah, but meeting the assistant magistrate and the darogah by the way, Myaram reported to them, and they came to the house, when witnesses saw that the padlock of the chest had been forced and the lid of the box open, but saw no wound on the body, there was blood on the *setringee* and bedding underneath the vagina, while there were the marks of scratches on the neck of finger-nails or the like. Afterwards on a search of the premises of prisoner No. 4, Gorah, the articles Nos. 1, 2, 3 and 4, of the stolen property were found, while article No. 5, was found on the premises of prisoner No. 5, Boisagoo, which property they recognize as belonging to the prosecutor. Witness No. 4, further deposes to some marks of bruises on the wrists and neck of the deceased.

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No. 5, Monee.

No. 5, witness, deposes to the production by the prisoner, Gorah No. 4, the stolen articles Nos. 1, 2, 3 and 4, which had been secreted under the fence on his premises, and to the prisoner No. 6, Boisagoo, producing the stolen article No. 5, further deposes to the apprehension of the prisoners Nos. 3 and 4.

No. 6, Mr. Civil Surgeon Ridsdale

Witness No. 6, who held a *post mortem* examination on the deceased, describes the external marks of injuries visible, as follows: Four ecchymorid patches on the right side of the neck, and on the wrists of both hands there appeared marks, probably caused by the ornaments having been forcibly taken off, but no other external injuries were visible. On opening the body, he discovered no indication of natural death, the organs being perfectly healthy, and the large quantity of food in the stomach, indicated that she had met with her death shortly after partaking of her evening meal, the subcutaneous cellular tissue of the anterior part of the throat presented a congested appearance, and judging from the position of the body, the absence of any appearance of natural death, the protrusion of the tongue between the teeth, ecchymorid patches on the side of the neck, the congested appearance of the subcutaneous cellular tissue of the throat, the stomach containing a full meal, taken collectively, led him to suspect she died suddenly and by violence, and is of opinion that she was strangled by the hand and by pressure being applied over the mouth and nostrils. There was no injury to indicate the crime of rape, but he considers it possible that it might have been committed, as from being a full grown woman, under ordinary circumstances no appearance of injury would present themselves.

Confession.—The prisoner No. 1, Poorah Nodial, before the police admitted that on the evening he with Domashoo No. 3, Boisagoo No. 6, Doyah, Monee and Magon, No. 5, concerted to rob the prosecutor's house, and at night they all together with Gorah No. 4, and Kistokant No. 2, went to his house and having cut away the door, Domashoo No. 3, Monee and Doyah entered and went to prosecutor's wife and robbed her of four bracelets and four gold ear ornaments, but that he, prisoner, never confessed to, nor did he throttle her. States that Domashoo No. 3, opened the chest with a pair of forceps belonging to Gorah No. 4, and that he and Gorah No. 4, carried out the property on the way from the place; Domashoo No. 3, Monee and Doyah said they could not tell whether the woman was dead or living. For fear of the clothes leading to detection, they were thrown away.

Prisoner made the same confession before the foujdary with the addition that for fear of its leading to detection, he had thrown away a *kassee* vessel which he had stolen; that the pri-

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soner Gorah No. 4, took with him a knife, and that it was Boisagoo No. 6, who told him that the woman was dead.

Prisoner No. 2, Kistokant, before the police denied having committed the murder, dacoity or receiving of the stolen property, but admitted that on the night on which these took place, Doyah (witness,) Monee (witness,) Domashoo No. 3, Boisagoo No. 6, Gorah No. 4, Poorah No. 1, and Magon No. 5, came to his house and awoke him; that they cut away the door of the prosecutor's house while he only stood a while in the yard, and then returned to his own house, when he heard the noise in forcing open the chest. He made a similar statement before the magistrate with the addition that he admits to having held consultations with Doyah, Boisagoo No. 6, and Domashoo No. 3, to rob the prosecutor's house.

Prisoner No. 3, Domashoo, confessed before the police of having gone with Kistokant No. 2, Poorah No. 1, Monee, Doyah, Gorahchand, No. 4, Magon No. 5, Boisagoo No. 6, to rob the prosecutor's house; that Kistokant No. 2, went to the front door, while he and Gorahchand went to the back one; that Magon and Poorah entered and broke open the chest and brought out a small box containing some ornaments, and that he heard from Magon that Poorah had got on the woman's chest, throttled and killed her, while Kistokant violated her. Further that Kistokant first went into the house and attempted to have criminal connexion with deceased, when Poorah by squeezing her throat, strangled her. He made like confession before the foujdary and further admitted that it was himself who broke open the chest, and that he was told by Poorah No. 1, that Kistokant No. 2, had violated the deceased and that Poorah strangled her. Kistokant told them as he had an intrigue with the woman, he would go first and took Poorah with him. The clothes were thrown away for fear they might lead to detection; that Poorah No. 1, took with him a *kassee* vessel, Magon a piece of cloth, that the rest of the stolen property was left in Gorah No. 4's possession for after-division. Soroo No. 1, was the adviser of the robbery, but not present.

Prisoner No. 4. Gorahchand, confessed to the same effect, as No. 3, and to Kistokant No. 2, having said that as he had an intrigue with the woman he would go first, and if she awoke he would say it was he, but if she attempted to cry out, he would take Poorah with him to gag her, and it was these two who killed her, that he Gorah No. 4, owns the knife and forceps and took charge of the stolen ornaments. Again, in his defence, he states that after the deed, Poorah wiped his hand on the grass, at the same time mentioning his impression that the woman was dead, while Boisagoo, Poorah, Monee and Kistokant, accused each other of having violated her.

No. 5 prisoner, Magon, before the police, confessed to having

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gone with Domashoo, Poorah, Boisagoo, Monee, Gorah, Doyah and Kistokant to the prosecutor's house, that Poorah, Boisagoo, Domashoo and Monee cut through the *tattee,* and that Kistokant and Poorah first entered and laid hold of the woman, but does not know by whose hand she died, Domashoo No. 3, broke open the chest with Gorah No. 4's forceps, while the rest carried off the property as far as the bridge, where they threw away the clothes for fear of detection, and Poorah No. 1, rubbing his hands on the ground spoke of the woman being dead; the rest of the property was taken by Gorah No. 4. Before the foujdary he made similar confessions, adding that it was Poorah No. 1, and Kistokant No. 2, who murdered the woman, that Domashoo No. 3, and Magon No. 5, said that Kistokant and Poorah had violated her, and that it was Soroo, who preconcerted the robbery. Finally in his defence he denies having gone into the house, and calls Doyah and Monee as his witnesses.

No. 6, Boisagoo, before the police, confessed to having at the house of Soroo No. 7, with Doyah, Domashoo No. 3, Monee, Poorah No. 1, Magon No. 5, Gorah No. 4, Soroo No. 7, and Kistokant concerted to rob the prosecutor's house, and that they all went for that purpose with the exception of Soroo No. 7; that Poorah No. 1, and Monee cut away the door while Kistokant went in and violated the woman, and that Poorah held her mouth while Domashoo and the others broke open the box and brought away the property, that the clothes were thrown away to prevent risk of detection. Before the foujdary he said he could not tell whether Poorah did throttle the woman or Kistokant violate her; that previous consultation had been held about committing the robbery, and that the piece of stolen cloth was given up by him. In his final defence he makes mention of Poorah No. 1, rubbing his hands on the ground and saying that the woman was dead.

No. 7, Bagoo.
,, 8, Melon.
,, 9, Khoorsid.

Witnesses Nos. 7, 8 and 9, depose to having heard the confessions made by the prisoners Nos. 1, 2, 3, 4, 5 and 6, before the police and foujdary, in which while they admitted the robbery, they all denied any share in the murder.

No. 10, Kobeeram.
,, 11, Kalicant.

Witnesses Nos. 10 and 11, depose to having heard the confessions made before the police, and also before the magistrate and assistant, to the robbery, and Gorah No. 4, having possession of the stolen property, and also to having been present when he took it from the place where he had secreted it; these witnesses also depose to the discovery of stolen article, No. 5, on the premises of Boisagoo No. 6.

No. 12, Lokicant.
,, 13, Gungaram.

Nos. 12 and 13, depose to the articles produced being the pro-

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secutor's property, except the article No. 1, which was placed with him as security.

No. 14, Bonoo.
15, Lohae.
16, Kallamonee.

Depose to having seen the prosecutor's door open, and the *tattee* cut through. No. 14, further deposes that he intimated this to Dyamullah, who again told Nyaram.

By the extract given in the margin* from the magistrate's letter, it will be observed that he and the jury were unanimous in finding the prisoners Nos. 1, 2, 3, 4, 5 and 6, guilty of dacoity attended with murder, and No. 7, an accessary, and while the jury fix the murder itself to the prisoners Poorah No. 1, Kistokant No. 2, and Boisagoo No. 6, the magistrate fixes it on Poorah No. 1.

From all the evidence adduced and the confessions of the prisoners Poorah No. 1, Kistokant No. 2, Domashoo No. 3, Gorahchand No. 4, Magon No. 5, and Boisagoo No. 6, I am of opinion that the charge of dacoity with murder is clearly established against them, and I am further of opinion that the prisoner Soroo No. 7, is guilty as an accessary before the fact. Although there is no direct proof to fix the guilt of the actual commission of the murder on any particular individual of the gang, yet as all of those present, with the exception of No. 1 Poorah, and No. 2 Kistokant, point to Poorah No. 1, as the person who strangled and to Kistokant No. 2, having secured the deceased, and as the vicinity of Kistokant's house and his previous acquaintance with her, would further indicate him as the most likely to undertake the part of securing her person, if he did not actually violate her, there is, I think, a violent pre-

* The jury find Poorah No. 1, Kistokant No. 2, and Boisagoo No. 6, guilty of dacoity and of the murder of Bany, and Domashoo No. 3, Gorachand No. 4, and Magon No. 5, of dacoity and accessaryship to the murder, and Soroo No. 7, of being accessary to the dacoity.

All the confessing prisoners deny having individually had any hand in the murder of the woman, or of having had any intention to commit such a crime, when they went to rob the prosecutor's house, and there is no reason to suppose that the murder was a premeditated one, but nevertheless the absence of such malice prepense, does not alter the nature of the crime, for that the unfortunate woman met her death at the hands of one or other of the prisoners, whilst engaged in an unlawful act, admits of no doubt. Dr. Ridsdale's evidence being conclusive that she was killed from suffocation and strangulation combined.

The only question is, who actually committed the deed? The jury are of opinion that Poorah No. 1, Kistokant No. 2, and Boisagoo No. 6, are the parties. I am of opinion that the first, Poorah No. 1, is the one guilty, for all his accomplices point to him as the person who killed the woman, and it is ruled to be legitimate in the absence of legal proof of who was the most guilty, to rely on the confession of parties concerned in making a selection for example. Being satisfied therefore of Poorah's guilt, and seeing no reason why any clemency should be shewn him, I would beg to propose his being sentenced capitally. Kisto-

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kant, Domashoo, Gorahchand Magon and Boisagoo, I would convict of being accomplices in the murder and of dacoity, and recommend their being imprisoned for life in transportation. Soroo is clearly guilty of being accessary to the dacoity from the evidence of Monee and Doyaram, which I see no reason to doubt, supported as it is by the confessions of the prisoners, and would suggest that he be sentenced to three years' imprisonment with labor in irons in the zillah jail.

sumption that they, between them perpetrated the murder, and in selecting from among the prisoners examples for capital punishment, I would, on the above presumption, recommend that Poorah No. 1, and Kistokant No. 2, as equally guilty, should both suffer death. I would further recommend that the prisoners, Domashoo No. 3, Gorahchand No 4, Magon No. 5, and Boisagoo No. 6, be sentenced to imprisonment for life in transportation, and that the prisoner Soroo No. 7, be sentenced to (3) three years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Messrs. H. T. Raikes and B. J. Colvin.)

Sir R. Barlow, Bart.—All the prisoners in this case (except No. 7, whom I would sentence as proposed by the deputy commissioner) must be held to be aiders and abettors in the burglary which was committed, and so far accomplices in the murder of the woman, Musst. Bany.

The two approvers in their depositions do not point out any one prisoner as having taken a more active part than the other, and they distinctly say that they do not know how, or by whose hands the deceased was killed. Each prisoner, however, criminates the other, but there is nothing in my opinion on the record, not even in their several confessions, which I do not admit to be legal evidence against their accomplices, which proves that one prisoner was in respect of the murder more guilty than another.

I would therefore in accordance with the practice of the Court, under such circumstances, sentence the prisoners Nos. 1 to 6, to imprisonment for life in transportation.

Mr. H. T. Raikes.—The evidence is clear and conclusive that the prisoners Nos. 1 to 6, are all guilty of having been present aiding and abetting, when a murder was committed in pursuance of a preconcerted plan to commit robbery. For such a crime Section 4, Clause 1, Regulation LIII. of 1803, awards the punishment of death, and though it may not be necessary for the sake of example that the extreme penalty of the law should be carried out on all the prisoners, I think it should certainly take its course on any who are distinguished as having taken an active part in the murderous deed.

In the present case I find the prisoners Domashoo, Gorah, Magon and Boisagoo, all concur in their first confessions that

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Kistokant and Poorah, insisted upon entering the house first to secure the woman, and that these two killed her.

Boisagoo alone so far qualifies his mofussil statement in the foujdary, as to say that he does not know that Kistokant and Poorah actually killed the woman, but he in no other way accounts for her death, and all the confessing prisoners corroborate the statement of the approvers as to Poorah having wiped his hands on the grass afterwards, uttering expressions which led them to believe that he had committed the murder.

Regarding the confessions of the prisoners adverted to and the depositions of the approvers as true on the main points, and that in a case of this kind it is allowable to give much weight to the statements of the prisoners in fixing the actual perpetration of the murder on one or more of them; I feel no hesitation in determining that this murder was committed by Poorah and Kistokant together, when they first entered the prosecutor's house. The latter had either intrigued with the deceased before or had joined in this robbery for the opportunity it afforded him of possessing the woman, his neighbour's mistress, and her life was taken by the two men either to stifle her cries or to prevent her informing against them.

I therefore convict the prisoners Nos. 1 to 6, of burglary attended with murder, and would sentence Poorah No. 1, and Kistokant No. 2, to suffer death, and Nos. 3, 4, 5 and 6, to imprisonment for life in transportation. The prisoner Soroo No. 7, as an accessary before the fact to the burglary, and in concurrence with the deputy commissioner's recommendation, I would adjudge him to three years' imprisonment with labor and irons.

Mr. B. J. Colvin.—This case has been referred for a third voice, in consequence of a difference of opinion between Sir R. Barlow, and Mr. Raikes, as to the sentence which should be passed upon prisoners Nos. 1 and 2.

I concur with Mr. Raikes, in sentencing them to death, for the reasons assigned by him; and with reference to the precedent of this Court dated 19th February, 1852, in the case of Roghoo Kulloo, *versus* Suboo Kulloo and others, when it was held that in a case of murder, in which several prisoners are liable to capital punishment, and it is not necessary for the ends of justice to carry that sentence into effect as regards all, it is legitimate, in absence of legal proof of who was the most guilty, to rely on the confessions of parties concerned in making a selection for example.

PRESENT:
A. DICK AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT
versus
BHOGOBAN GHOSE.

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The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits, and having committed the following dacoities, viz:—In the house of Haradhone Patuck at Bissorumba, thannah Poorbustee, zillah Burdwan, on the night of the 14th June, 1849. In the boat of Rammohun on the Ganges below Bahargorah, zillah Nuddea, on the night of the 20th September, 1849. In a boat on the Ganges below Jhaoodanga, thannah Agurdeep, zillah Nuddea, in the month of March, 1850, in which the defendant was wounded. In the boat of Parbuttee Churn Mitter, on the river Khoreea, thannah Hatra, zillah Nuddea, on the night of the 10th August, 1849. In the house of Madhub Gangoolee, at Shadhanparah, thannah Nuddea, zillah Nuddea, on the night of the 4th October, 1850. In the house of Greeschunder Nundee, at Akedala thannah Poorbustee, zillah Burdwan, on the night of the 27th June, 1851. On the loaded hackery of Juggut Chunder Mookhopaddiah, at Gabarkoolee plain, thannah Hatra, zillah Nuddea, on the night of the 10th November, 1851. In a *swaree* boat on the river Khoreea below Telokepoor, zillah Nuddea, on the night of the 11th August, 1850.

Committing Officer.—Mr. E. Jackson, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 12th June, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits, who committed the following land and river dacoities.

A dacoity in the house of Haradhone Patuck of Bissorumba, on the night of the 14th June, 1849.

A dacoity in the house of Madhub Gungoolee of Shadhanpara on the night of the 4th October, 1850.

A dacoity in the house of Greeschunder Nundee of Akedala, on the night of the 27th September, 1851.

A dacoity in the boat of Rammohun Biswas on the Ganges below Bahargora, zillah Nuddea, on the night of the 20th September, 1849.

A dacoity on a boat (owner unknown) on the Ganges below Jhaoodanga, thannah Agurdeep, zillah Nuddea, on a night in the month of March 1850, and in which the defendant was wounded.

A dacoity on the boat of Parbuttee Churn Mitter on the river Jullinghee within the jurisdiction of thannah Hatra, zillah Nuddea, on the night of the 10th August, 1849.

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A dacoity on a *swaree* boat on the river Jullinghee below Telokepoor zillah Nuddea, on the night of the 16th August, 1850.

A dacoity on the loaded hackry of Juggutchunder Mokopadhia on the Gobarkoolee plain within thannah Hatra, zillah Nuddea, on the night of the 10th November, 1851.

I subjoin a few notes showing what was discovered of these cases at the time, and what success attended the police investigation into them.

The Bissorumba dacoity, property to the amount of 934 Rs. was carried off. The villagers assembled and shot arrows at the dacoits. A few days after, Mudhoo Ghose was found with a wound on his leg like that from an arrow. On being questioned he admitted that he got it while committing the Bissorumba dacoity and he named as his associates in crime, the approver Manick, the prisoner Bhoghoban and others. Mudhoo Ghose was convicted and sentenced, but no other success attended the enquiry.

The Shadhanpara dacoity.—This was reported as an attempt only, and the darogah pretended to believe it. Nothing was of course done to ascertain who the criminals were.

The Akedala dacoity.—Property to the amount of 66 Rs. was carried off. The owner of the house recognized a man, but he denied, and the property found in his house, the plaintiff did not claim. He was accordingly released. Munohur, one of the dacoits named by Manick, was recognized in this affair, but he had absconded for some time and was not to be found. A *dao* was left behind by the dacoits and that was recognized as Munohur's property, but the evidence was not deemed altogether satisfactory and the parties were released by the magistrate.

The Bahargora dacoity.—There was no report made of this dacoity to the police upon the spot. Rammohun Biswas first brought it to light in a petition to the Superintendent of police. An enquiry was then set on foot, and it was discovered that this dacoity had really taken place and that 259 Rs. worth of property had been carried off. The investigation was allowed to drop, because it was represented that the property plundered belonged to a deceased party, and the person who made that representation would not prosecute.

The Jhaoodanga dacoity.—It came to the knowledge of the darogah that Bhogoban had received a wound in some dacoity, but he could discover nothing certain about it. Bhogoban pleaded that he wounded himself accidentally, but his account was deemed improbable, and as he had been before a suspected character, he was required to furnish security. The order was upset by the sessions judge.

The dacoity on the boat of Parbutee Churn Mitter.—Here 600 Rs. worth of property was plundered. The darogah was informed that it was probable some of the property would be found with Brijo Ghose. This man was apprehended and con-

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fessed, and some property was found in his house. This confession implicated Bhogoban who was not to be found, and his women were detected in removing out of the way sundry pieces of cloth. Bhogoban afterwards appeared, denied the dacoity, and averred that neither he or his women had ever received any portion of the plunder. The owner of the boat had then absented himself and there being no one to identify the property, the investigation came to an end, and all the parties who had been apprehended, were released.

The Telokepore dacoity.—It is not necessary to say anything of this case. None of the approvers state that the prisoner was in it, and he has evidently been made over, under the mistaken idea, that the witness No. 3 Nobaie, had mentioned his name in connection with this dacoity. Such, however, was not the case, as Nobaie spoke of Bhogoban who lived at Myacole, whereas the prisoner lives at Mohutpore.

The Gobarkolee dacoity.—This was an attack on a loaded cart. The property consisted of new cloth and thread and was of the value of Rs. 126-8 ; Ramdhone Ghose, the party in charge of the cart, said he could identify four of the dacoits if he met them. Going with the darogah in the village, he pointed out Boistumchurn and Mudhoo Bagdee. They were apprehended, but both denied. The carter pointed out Ambeeka and Lukhun Bagdee who also denied the robbery, but they both affirmed that they had seen Manick (the approver) and Mudhoo Ghose (a party named by Manick as concerned in this affair) sitting by the road-side in company with six others, the evening of the dacoity. Both lived in Mohutpore where the darogah proceeded. On the way he was told by a ferryman that Manick, Mudhoo Ghose, Deenu Chookra, another Mudhoo Ghose, Jadoo Ghose, Goea Ghose and Manick's mistress had all gone the day of the dacoity to Mooragachee, a village adjoining Gobarkolee to see the *Rass poojah*, and that only Deenu and Manick's mistress had returned. The darogah searched the house in which Manick resided, but found none of the plundered property, and there being no proof forthcoming against him, the darogah could do nothing more and dropt the investigation.

Witness No. 1, Manick deposes to and names the prisoner as present in the 1st, 2nd, 3rd, 4th, 5th, 6th and 8th, dacoities.

Witness No. 2, Noyan deposes to and names the prisoner as present in the 1st and 3rd dacoities.

Witness No. 3, Nobaie deposes to and names the prisoner as present in the 2nd, 4th, 6th, 7th and 8th dacoities.

The subjoined figured statement shows how far each witness was consistent in his examination before me, and his examination before the commissioner for the suppression of dacoity, in respect to the identity of the prisoner and his presence in the several dacoities named.

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Number and name of prisoner.	No. 1. Bissorumba dacoity.	No. 2. Shadhan-para.	No. 3. Akedala.	No. 4. Baharogo-rah river-dacoity.	No. 5. Jhaodanga river-dacoity.	No. 6. On the boat of Parbuttee Churn.	No. 7. Teeloke-para dacoity.	No. 8. Gobarko-lee dacoity.	Remarks.
Bhogoban Ghose,	Approver.	Approver.	Approver.	Approver.	Approver.	Approver.	Approver.	Approver.	The figures in red, refer to the evidence before the Dacoity commissioner.
	1·2	1·3	1·2	1·3	1	1·3	..	1·3	
	1·2	1·3	1·2	1·3	1	1·3	..	1·3	

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To place the evidence against the prisoner in the clearest view, and to facilitate comparison between the deposition of one approver and another, and to be of use in any future commitment of members of the same gang, I think it advisable to supply a complete translation of the entire evidence taken at the trial.

Manick Ghose approver witness No. 1, being interrogated says, I know Bhogoban the prisoner at the bar. He committed ten or twelve dacoities with me; about five or six years ago we committed a dacoity in a boat in the river near Bargorah, a village within the jurisdiction of thannah Nuddea. Bhogoban Ghose was present at this dacoity. On the day, the dacoity was to come off towards evening, the prisoner Bhogoban Ghose, Nobie Ghose and Ishan Ghose, came to my house and proposed, that we should go and commit a dacoity in a boat. I agreed and told them to go off, and that I would collect men and join them on the bank of the river near Boladanga. They went accordingly. I collected as many people as I could find from my gang and arrived at the place of rendezvous at about one or two *dunds* of the night. We prepared bamboos and *lattees*, but not finding the boat where we expected, we went along the river-side in search of it. Seeing three or four boats near Bargorah, we stopped there. A gun was fired from one of the boats, and we inferred that it must contain property. The people eat their food and lay down. Some were asleep and some were awake. We went near the boat quietly and jumping on the latch, we let it go adrift by taking up the post with which it was fastened to the bank, there was a light in the boat, one of the boatmen jumped into the water and swam to another boat, which was moored near the shore, and began to make a noise. We took the boat on the other side of the river, and plundered it of all its contents. We caught hold of the owner of the boat, but we were not severe with him, only giving him a few slaps. We did not beat any one else. We crossed the river with our booty in a Nikaree's empty boat, and went to the Beyala *maut*, where we were searched and the division of the property was made. In a jungle on this *maut* we spent the night and the following day, in expectation of committing another dacoity, but being disappointed in our hopes, we all returned to our respective homes the following night. Myself, Nobie Ghose and Bhogoban Ghose were the Sirdars and spies on this occasion, ten or fifteen Rupees in cash and a few clothes were obtained in this dacoity. I heard that Bhogoban Ghose had concealed some 40 Rs. in this affair. The gang was composed of myself, Nobie, Bhogoban, Ishan Ghose, Sonaie Sheikh of Tallah, Gomanee Sheikh, Tino Ghose, Okhoy Bagdee, &c., altogether seven or eight in number. Who took up the post to which the boat was tied? One of us did so. I cannot say who. How did you come to know that the boat contained property? No one gave us information; hearing the

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discharge of the gun from the boat, we inferred that there must be *mal* in it. What did you get in this dacoity? I got a telescope which I gave to Bykant Mozoomdar two or three years after the dacoity. I concealed it during the period. Being interrogated, says that search was made on the Beyala *maut*, but there was no division of the plundered property, every one took what he got. Nobie Ghose went on this dacoity. There was a gun in the boat, but who took it, I cannot say.

About four or five years ago, we committed a dacoity in a boat on the river near Jhaoodanga, on which were some Nepalese. In the month of Chyet, I and the prisoner Bhogoban Ghose, went to see the *baroonee* fair in Augrodeep, and there we took a good look at the boats to see which were worth robbing. We found a few boats near Jhaoodanga and among them was a Nepolea, one in which we saw some Up-country men playing at *pasha*. Supposing that the boat contained property, we sat on the bank in a bush to the south of the boat in question, it was then one *pahur* of night. We took the *luggees* of other boats and bamboos from the place where Hindoo corpses are burnt and approached the boat at 12 o'clock at night. We found a lamp burning in the boat and some persons playing *pasha*, there were Up-country men and we hesitated for some time whether we should be able to cope with them. We went, however, quietly up and struck a blow with a *lattee* on the head of one of the players, whose thoughts were at the moment entirely directed towards the play, and the man fell forward on his breast. We immediately sprang into the boat, beat the inmates and began the work of plunder. We had a scuffle with the boatmen, one of whom wounded Bhogoban with a *krees* on the leg, and he fell overboard. Muddoo Ghose too jumped into the water and fled away. As the boat had drifted a good way into the middle of the stream, the rest of us were unable to leave the boat, so we remained. The boatmen also wounded one of our gang, Ishan Ghose, with a *krees*. He fell overboard, but got into the boat again by the helm. We were very much beaten by the people in the boat. Being no longer able to fight with them, we said, "Yes, we are served right," and entreated them to put us on the shore. We pulled the oars and reaching the shore, we landed, when we again renewed the attack on the boat, but our opponents thrust large knives at us, and considering that they were Nepaulese, we thought it best to leave them alone, and so we ran away without being able to plunder any thing. We searched for Bhogoban Ghose and Muddoo Ghose, who had escaped from the boat, and not finding them, we crossed the river at Dadpore in a ferry boat and spent the night in the *maut* near Patooba. The next day we went to Augrodeep to witness the *mela* (fair.) On the day following we returned home. We did not find Bhogoban and Muddoo Ghose

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in Augrodeep. We met them two days after in their own home. We found Bhogoban wounded. The following persons went on this dacoity. Bhogoban Ghose, myself, Ishan Ghose, Jadoo Ghose, Goburdhun Ghose, Bissonath, Muddoo Ghose, &c., about seven or eight persons. There was no spy or sirdar on this occasion. We were all equal in those respects. Was any person apprehended in this dacoity? Many days after the occurrence of the dacoity, Bhogoban Ghose was apprehended on account of his wound, but was released, no one else was apprehended. On being interrogated says: Bhogoban was standing on the deck of the boat when the boatmen wounded him from inside with a *krees* or a sword.

About four or five years ago, I committed a dacoity in the boat of Parbutty Mitter, or what name it may be, I do not know, on the river Jullinghee near Kalleenugger. When Bhogoban came to inspect his land in the afternoon of the dacoity, he informed me of a boat having just arrived from Calcutta with cargo of cloth. About two or four *dunds* of night we started, and crossing the river in an Indigo-boat near Mahotpoor factory, we went to the Kalleenugger ghat, but not finding the boat there, we were proceeding in search of it, when we suddenly came on the boat, moored near two or three others at a little distance on the east side of the ghat. At 12 o'clock at night we took the *luggees* from other empty boats, and bamboos which we found on the bank of the river, and prepared our weapons, with these and other *lattees* which we had brought from the boat in which we crossed, we at once got into the boat to be robbed. There was a light in it, and the men were sleeping. We found several bundles of cloth. Some of us went inside the boat and some remained on the thatch. We beat the boatmen, and plundering all the bundles, landed. We recrossed the river in the same boat near the abovementioned factory, depositing our booty in the house of Bycunt Mojoomdar of Mahotpore, we went to our respective homes. Bycunt told us that he would sell the property to *pykars* and give us the money. Next day having heard that the darogah had come, we got afraid and removed the booty into the house of Mohun Mallah, of Noldah, who was a dependant of Bycunt Mojoomdar. After the property was sold, Bycunt told us that he had paid the money to the darogah for our benefit and that he had nothing left to give us. The gang was composed of the following persons. Myself, Nobie Ghose, Bhogoban Ghose, Goburdhun Ghose, Jadoo Ghose, Nidhiram Ghose, Bycunt Mojoomdar, Ishan Ghose, Bissonath Ghose, Birjo Ghose, Nobin Ghose, &c., about eight, nine or ten, twelve persons. The cloths were worth 200 or 250 Rs. No one was the sirdar in this dacoity. Bhogoban gave the information. Was any of the cloth found when the darogah came to investigate this case? Two or three pieces of cloth were found in the

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house of Jadoo Ghose, and Bhogoban's mother (Sukhee), and his sister Kirtat's, were caught by the police with some clothes, which they were carrying away in *pittarah*.

About two or three and half years' ago, I committed a highway robbery on the Goburkullee *maut*. I, Nobie Ghose and Bhogoban Ghose, went to Mooragacha to see the *Rass poojah*. We left home in the morning and reached at one and a half *puhar* of the same day. After bathing at Rokunpore ghat and eating our food, we were returning home in the afternoon, when on the road south of Goburkullee, we found a cart laden with clothes, very little of the day then remained. Goburdhun Ghose said, "it is almost evening, let us rob this cart." I told him, "that I was very well known here, and that I could not join in the crime." Goburdhun replied, "You can keep aloof, we will manage the affair without you." Saying this he sat down and asked Muddoo Ghose of Goburkullee to prepare a *chillum* of tobacco, which we all smoked. By this time the cart had reached the *mydan*, we got up, and Goburdhun and Muddoo Ghose, &c., taking up some twigs by the roots, ran up to the cart, picking a quarrel with the cart-driver about some tobacco, they beat him. There were three cart-men, one of whom ran away. Handling roughly the remaining two, we plundered two bundles of thread, and cloth, and went to the Harindaga *maut*, through an *orhur* field, which was close by the scene, there we divided the booty and went home, about 200 or 250 Rs. worth of property was obtained. I, Goburdhun, Muddoo Ghose, Jadoo Ghose, Bhogoban Ghose, Nobie Ghose, 2nd Muddoo Ghose, were concerned in this affair. No one was the sirdar or spy on this occasion. In this case Muddoo of Goburkullee was apprehended. He confessed and was sentenced to seven years' imprisonment, Goburdhun Ghose was also convicted in this case of knowingly receiving stolen property and sentenced to five years' imprisonment.

About four or five years ago, I committed a dacoity in the house of Madhub Gangooly of Shadunpara. I lived then at Mahotpore. A month previous to the dacoity my former concubine, Puddo, and Kalleechurn Ghose of Shadhunpara, told me, that Madhub Gangoolee was a bad man, that he had plenty of property and that it would oblige them if we committed a dacoity in his house and deprived him of all his property. I accordingly collected men on the morning of the dacoity and started from home—says afterwards, that he left home not in the morning but in the afternoon. We crossed the river below the bazar of Jitkeepolah in a ferry-boat, one or two at a time. We sat on the bank of a tank to the north of Tatta village and when we were all collected, we set out again and crossing Goorgoorah khal, we arrived at Soojunpore, where cutting bamboos from a bamboo tope that was there, we prepared our weapons.

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Thence we went along the bank of a *beel* and assembling in a garden in Shadunpara, south of the house intended to be attacked, we made *Kallee Poojah*, and at twelve *pahur* of night, reached the house. I scaled the wall and opened the sudder door and the dacoits entered. I, Nobie Ghose, and Bhogoban Ghose, stood sentries outside. The rest of the dacoits went inside the house and broke open the doors and plundered the property. We could not find any of the male members of the house. Some women were caught, but they were not beaten. I once went and snatched three or four gold ornaments from the neck of one of the women. The dacoity lasted two hours, after which the villagers assembled and pelted clods at us. We then left the premises and went towards the south by the side of the *beel*, coming on a *maut*, we counted our men and found two of the gang missing, viz., Dokhina Kamar and Seeru Kybert. We searched for them for some time, but they were not to be found. We thought that as they broke the box, they might have got some valuable property and had therefore ran away. We resolved to lay hold of them when we got home. The search was made on the east field of Mooragacha, but nothing was got from any of the prisoners, except from Nobie Ghose, on whom was found a silk cloth. I also had with me three ornaments and a nose-ring. There was no division, each went away with what he got. On demanding money from Dokhina Kamar, he said he got nothing, as he ran away while cutting the box, hearing the shouts of the villagers. On this we thrashed both Dokhina and Seeru Kybert. We hit a blow with a *lattee* on the hand of Dokhina, which brought out blood. Apprehending lest the matter should be known, we left him and went away. I cannot say what amount of property was plundered in this affair. I and Nobie Ghose were the Sirdars, and Puddo Banea and Kally Churn Ghose, were the informers. The gang was composed of myself, Bhogoban Ghose, Nobie Ghose, Jadoo Ghose, Issan Ghose, Tyloko *alias* Toyapara, 2nd Bhogoban Ghose, Chand Sheikh, Gomanee Sheikh, Dokhina Kamar. I do not know any other names, about ten or fifteen persons.

Question.—You said that in this dacoity, Dokhina Kamar ran away on the night of the dacoity, did you meet him again during the same night?

Answer.—No, I did not meet him during the same night after he had ran away. I saw him the next day.

Being interrogated says, that I committed a dacoity in the house of Haradhun Pattuck, of Bissorumba, Monohur Ghose, of Ekdolah and Madhub Ghose and Sreemunt Ghose of Poorbostullee, informed me a day previous to the dacoity. The next day the prisoner Bhogoban Ghose, Tinnoo Ghose, of Fulta, and myself, adjourned to a garden near Poorbostullee, but as it rained very hard that night, we could not fulfil our purpose. The

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next day we remained concealed here and there, and in the night we left Poorbostullee and assembled as Bissorumba, south of the house to be robbed. We had with us some bamboos, &c., and we prepared more there, and after making *Kally Poojah*, we repaired to the house and one of us scaled the wall opened the door and the dacoits entering the house, began to plunder, I, Tinnoo Ghose, Budden Ghose, and two or three others stood sentries outside. During the dacoity I once left my post and went inside the house, where I saw that the dacoits had hold of the owner and were beating him. They beat him to make him shew his money. At length he took them to a cow-house, and told them that his money was buried there. We dug up the floor and got the money, when we let the owner go. The villagers only made a shouting. We went away by the bank of the *beel*, west of the village. Having got on the *maut*, the search was made, but the money was not forthcoming. The ornaments were divided. There were in this affair I, Bhogoban, Budden Ghose, Nuffer Ghose, Gereedhur Ghose, Shorbo Ghose, Goverdhun Ghose, Nundo Ghose, Munohur Ghose, Sreemunt Ghose, Madhub Ghose and 2nd Muddoo Ghose. In this dacoity Muddoo Ghose Phakee was wounded. The sirdars were Munohur, Buddun and Ramcoomar Ghose. The spies were Sreemunt, Munohur and Madhub. There was 4 or 500 Rs. worth obtained in this dacoity.

Being interrogated says, I was not concerned in the dacoity on a *swaree* boat upon the Jullinghee.

Question —Do you know any thing of the dacoity in Akedola?

Answer.—Yes, I was in the dacoity, four or five years ago during the time that I was in service with the Mokerjee Baboos of Mohunpore, I went in search of some cattle, which had been stolen from the villagers. I met Munohur in some one's house, and he found out the cattle and brought them to me. He came with me to my employer's house. He then told me of this dacoity. I having collected my gang, started in the day of the dacoity and arrived after evening at a tumble-down factory of the Sheiks of Akedola. By degrees the whole of the dacoits assembled there. We prepared our weapons there, and going from there to a bit of fallow land, west of the house, and near it we made *Kally Poojah*, and prepared our *mussals*. At 12 o'clock we went up to the front door of the house. Some one scaled the wall and unfastened the door. The dacoits entered. I and two or three others, whom I don't recollect stood on sentry, the rest went to plunder the house. After a bit, Munohur came up and said, There are no men in the house, we shall get nothing. On this I went into the house. A woman was running off with some ornaments tied in the corner of her clothes. I cried out "Seize her," when some one went to do it. The woman then threw away her jewels and ran off, some women ran up the

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stairs, and shutting the trap-door began shouting out from the roof of the house. The villagers arrived and pelted us with bricks. We ceased the plunder, and as we came out, the women called aloud " Munohur, Munohur." We then went east and came up to the river bank. There was no search, because we obtained hardly any thing. Every one took what he got. There was 100 Rs. worth in all. I fancy Munohur was the spy and the sirdar on the occasion. We were about seventeen or eighteen of us in this affair. The following were among that number. Khoodee Sheikh of Sahibnugger, Jureep Sheikh, Nyan Sheikh, Gereedhur Ghose, Nuffer Ghose Byragee, Muddun Ghose, Tenu Ghose, Shorta Ghose, Muddoo Ghose, Bistoo Ghose, and I think Ramdhun Dhobee, Bhogoban Ghose, Goverdhun Ghose, Madhub Ghose and Sreemunt Ghose.

Think well, and specify every dacoity on which you have ever been in company with Bhogoban.

I have been with him in the Shalgong, Kotalea, Sadunpara, Putagata, Bissorumba, Ekedala, Burgora river-dacoity, Kalleenugger river-dacoity, Gubarkoolee, Polassee, Hatgacha, Kanearea, Moshdanga, Jowdanga river-dacoity, Muddae Serampore.

Do you know Ogur Sheik of Mooragachee ?

Yes, but he has not often been with me on dacoity. He went on the Shalgony and the Burgora river-dacoity.

Do you know any Manick Ghose, the relative of Bhogoban Ghose ?

I know Manick Ghose of Poorbostullee, who is Bhogoban's wife's brother. He went with me in three dacoities, viz., the Brimmoreetullah, the Moshdanga and the Bissormuta dacoities, and I recollect that he was also in the dacoity on the boat of the Nepaulese. Being interrogated says. The Teloke named by me in the Sadunpara dacoity is Teloke Ghose, and he is also called Teapara, his house is in Miakole.

I know Looknath Joogee, he was with me in the Sadunpara, Noteepotee, Hatgacha, Kamarea, and in the Kurkurrea river-dacoity.

Bhogoban was on the Surroopgunj river-dacoity. I did not recollect to name this above. I don't exactly know if he was in the dacoity on the boat below Punditpoor Ghaut. Bhogoban was also present in the dacoity in the house of a prostitute of Goepoor. I did not recollect this, Bhogoban was not present in the dacoity on a hide-boat below Hurringdanga. The Bhogoban of Myacole was in the last dacoity. The prisoner Bhogoban resides at Mohutpoor. The prisoner Bhogoban was not in the river-dacoity at Sahibnuggur, the Bhogoban of Myacole was in it. The prisoner Bhogoban was in the Hatgacha Kamaree dacoity, but I forgot to give his name to the dacoity commissioner.

The evidence of Nyan Sheikh approver, witness No. 2.

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Being interrogated says, I know Bhogoban Ghose the prisoner, have known him for sixteen or seventeen years last. He has committed two dacoities with me, the Ishapoor and the Bissorumba dacoities. The particulars of the Bissorumba dacoity are these. Five or six years ago, Teenoo Ghose came to my house at four *dunds* of the day remaining of the day previous to the dacoity and said that Manick Ghose and Ram Koomar Ghose have ascertained a place for a dacoity, the other side of the river, they have told me to bring you to them. I started with him and having gone a litte distance, we fell in with Looknath Joogee by the *khal*. He said, Come along, I was on the way to fetch you. We were joined there at the *ferry* by Khoodee and others, and we went together to Cheeru Ghose's house in Tarambas. Cheeru Ghose and his brother Guddadhur Ghose joined themselves to our company, and we then proceeded to cross the river, and having done this, we made for Bonomalee's shed which was in a mangoe tope on the Murgunj, east of the thannah of Poorbostullee, there we sat down, Bonomalee Ghose, Bhogoban Ghose and others, ten or twelve in all, were already assembled there. But it began to rain hard and many others could not come, we were therefore unable to commit the dacoity that night. I went and passed the night in Myzadeen's house in Poorbostullee. All the next day I was there, and after evening I went to the house of Manick Ghose, brother-in-law of Bhogoban, who lives in Soofee or some such place. Again it rained hard, and again the dacoity was prevented. The next day, at evening, I and Myzadeen went to the above said orchard. The other dacoits were already there. At about 9 o'clock Sreemunt Ghose and Madhub Ghose brought some wet clubs with which we armed ourselves, and then proceeded to the north of the village in which our work lay. We cut some bamboos from a clump there, and made some more clubs and lances and moving still nearer the house, we sat on the road and performed *Kalee Poojah*. Having also made up our *mussals*, we proceeded to the house. Some of us went by the lane and some through the broken fence into the enclosure. I was at first on sentry, but I afterwards joined in the plunder Joreef and Manick Ghose were the sentries also, Teenu Ghose, Budden Ghose, Bhogoban Ghose and others in all, there were ten or twelve sentries. We seized the owner and beat him. He then shewed us, buried under the eaves of the house, a pot of rupees and ornaments, which we dug up. The villagers had then arrived and began to make a noise. We decamped by the road we came and having got beyond the *beel*, we had a search on the *maut*. One of the dacoits cried out: "Here are the villagers." We got alarmed and each one made off with what he had. There was no division. I imagine there must have been in cash and ornaments at least 1000 or 1200 Rs. worth,

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Manick Ghose and Ram Koomar Ghose were the sirdars. I heard that Sreemunt and Madhub were the informers. There were in this dacoity the prisoner Bhogoban Ghose, I, Khoodee Sheikh, Joreef Sheikh, Buddun Ghose, Cheeru Ghose, Madhub, Bunomalee Ghose, Shuttodhur Ghose, Guddadhur Ghose, Kala Khoodee, Shurryut Sheikh, Dona Kamar, Teenu Ghose, Looknath Joogee and others, about thirty in all. I heard too that Muddoo Ghose, one of our number, had been wounded by an arrow, had been apprehended and confessed on which Manick, Bhogoban and Cheeru Ghose, were summoned, but whether they appeared or not, I can't say.

I was not on the dacoity in the boat of Parbuttee Churun Mitter, nor in the Bargoora river-dacoity, nor in the Jowdanga river-dacoity, nor in the Teelokpoor river-dcoity, nor in the Sadunpara dacoity. I was in the Akedola dacoity in the house of Geerees Chunder Nundee. It occurred four or five years ago. Two or three days before the dacoity, Manick Ghose told me that there was to be this dacoity on a certain day and he directed me to go and sit down on the day appointed on the river-side in Bamunpokorea. I accordingly went on the day fixed. On arriving at the river-side, I saw there Manick Churn, and others, altogether seventeen or eighteen persons. As soon as I arrived, we all got on to a boat and crossed the river. I should not say that we crossed the river, but that we went in the boat close to Matapoor, and there we left the boat tied up. Leaving that at about nine or ten o'clock we went and sat in a bamboo tope north of Matapoor. There we made ready our weapons. One of the dacoits had been to see the house; he came back and said, that there was a musical party at the house, we therefore determined not to commit the dacoity that night. Munohur (I have lately discovered that it was Munohur) said, I will show you another house, come along. All followed Munohur into a mangoe tope near a house in Akedola village. Munohur said, This is the house. Having made *Kallee Poojah* we all rose, and going to the house, we ascertained that it was a brick one, a low-storied and not enclosed. We broke open the door and going inside, broke open the boxes and plundered every thing we could find. The villagers arrived and opposed us. We made our retreat by the road we came and proceeded straight to where we had fastened our boat. Getting on it we crossed to the Bamunpooker ghaut and every one went away home. There was no search, every one took away what he got. I fancy the plunder was about two or three hundred rupees in value. There were twenty or twenty-two of us in this dacoity. The spies were Munohur and Madhub Ghose. The sirdars were Manick and Ram Coomar. There were in the dacoity Bhogoban, Joreef, Khoodeeram Sheikh, Budden Ghose, Surbo Ghose, Kisto Chunder Ghose,

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Nuffer Ghose, Bishto Ghose, Gereedhur Ghose and Muddun Ghose. There was no search, because it was near morn when we got to our boat. I can't say in what places the property plundered was found.

I was not in the Gabarkolee dacoity.

The evidence of Nobeen Ghose approver, witness No. 3.

Being interrogated says, I have known the prisoner for the last eight or ten years. He has committed seven or eight dacoities with me. I did not go on the Bissorumba dacoity. I did go on the dacoity in the boat of Parbuttee Churun Mitter on the Jullinghee. Four or five years ago, Manick Ghose sent for me on the day of the dacoity and said that he had some business with a boat below Kalleenugger and invited me to go with him. Without further ado I agreed, and at once went with him to Bycunt Mozumdar's house in Mohutpoor. Manick Ghose got together every body at that place, at one *pahur* of night, we all left and went over the *maut* to the bank of the river. Getting on board a boat there was below the factory we crossed. There were two or three boats moored to the bank, we attacked the boat in which the up-country men were, and on board which there was a light burning, we plundered it of three or four bundles of cloth, and then re-crossing the river on the same boat in which we had before crossed, we came with the cloth to Bycunt Mozumdar's house, it was deposited with him. Next day Bridjo Ghose having been apprehended, the cloth was sent to the Nulda gomashta Mohun Mullah's house. Bridjo Ghose was sent into the magistrate, but was released. Manick Ghose was both the informer and the sirdar on the occasion. There were present with him, I, Bhogoban, Bycunt Mozumdar, Bridjo Nauth Ghose, Nobeen Ghose, Gereedhur Ghose, Niddeeram Ghose, Ishan Ghose and Jadoo Ghose. There were not more than nine or ten men in all. The cloth we got was about two hundred and fifty rupees worth. There was no division of plunder. Bycunt Mozumdar told us that he had spent the proceeds of the sale of cloth in getting off Bridjo Ghose. Bycunt was not then employed by the factory, but he was by the zemindar, Mohun Mullah was a friend of Bycunt Mozumdar, that's why the property was sent to him. When we got upon the boat the men who had been on board, jumped on shore, some threw themselves overboard. Being interrogated says, he omitted from forgetfulness to name Nobeen, Jadoo and Niddeeram.

I was also present in the river-dacoity below Bargora. About four or five years ago, a day or two before the great *poojah*, Bhogoban and I went at evening, by previous agreement, to an orchard at Polta. Manick brought some men to the same place from Polta. We then started from there together and going to the river-side below Bargora, we sat down. Manick and Sonaie Sheikh went to have a look at the boat. Returning a little

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while after, we started together and taking out of an empty boat the *luggces*, &c., we prepared our weapons. We then went up to our boat; it was a *panshway*. We took up the stake by which it had been moored to the bank, got on board, and sent the boat adrift. The boatmen threw themselves overboard. Taking the boat to the opposite bank, we took every bit of property out of it and left the boat. Going some distance along the river bank, we found a boat in which we crossed. There was a division made when we got to Boladanga *maut*. We got in brass pots and pans, cloth and a telescope, and cash, about one hundred rupees worth. There were in this dacoity I, Manick, Bhogoban, Ishan Ghose, Gereedhur Ghose, Gomanee Sheikh, Sonaie Sheikh, Teeno Ghose, Okaie Baroe, we were in all eight or nine persons. Manick was the informer as well as the sirdar.

Question.—Say, if you recollect any more of the dacoits' names, for you gave a list of sixteen to the commissioner?

Answer.—I do recollect some more, Chand Ghose, Gomanee Dirzee, 2nd Bhogoban Ghose, Taie Ghose of Myacole. Being interrogated says, I don't know to whom the boat belonged. The division was made on Boladanga *chur*. I got a box and nine or ten rupees and some cloth. The telescope was given to Byeunt Mozumdar. The boatmen fled directly they saw us.

I was not in the dacoity on the boat of the Nepalese. I was on the dacoity on board a boat below Telokepoor. About four or five years ago, I and Nyan Singh eat our dinner, started from home with the intention of committing a dacoity in Andolea. Crossing the Jullinghee we sat down in the *Dullee Mala Haut*. All the rest having arrived a little time afterwards, we were all going faces north, when at near nightfall it began to rain. Seeing a *panshway* going down stream we fancied it had property, so giving up the Andolea dacoity, we turned back. I followed the boat along the bank, the others went by a road and sat down by a *khal*, a short distance from *Dullee Mala Haut*. The *panshway* men were fastening the boat below the bazar, but I advised them not to do so and they took my advice and went and moored some way off along side of some other boats. Our gang then at about 9 o'clock crossed the *khal* and went and sat down not far from the boat. When we were on the *khal* side, Nyan Sheikh brought bamboos and so forth to us. We fell upon the boat at 12 o'clock and making a great row and beating the boatmen, all the other boats put off in a fright, the boat we attacked had women, they gave up what they had of their own accord. We got also a box and a *pettarah*. Having plundered the boat we told the boatmen to take us to the other side, they did it, we opened the box and a *pettarah* while we were on board, we got altogether two or three hundred rupees worth of plunder. Nyan was the sirdar, and there were in the dacoity,

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I, Gopal, Jareef, Khoodee Sheikh, Poraie Sheikh, Looknath Joogee and Kylas Gwalla. Bhogoban the prisoner was not in this dacoity.

Being interrogated says Dockina Kamar and Sreeram Chasa went also.

Four or five years ago, I was in a dacoity in the house of Madhub Gangolee of Sadunpara, Bhogoban the prisoner was in it. The day before the dacoity Manick Ghose had planned all about it and told me to go the next day at evening with my followers to Palta north *maut.* I, Gereedhur Ghose, and others, proceeded there at the appointed time, Manick Ghose went with us. By degrees all the rest of the dacoits arrived. At four *dunds* at night we got up from there and crossing the Goorgoorea Khal, when we got near Soojunpoor, we cut bamboos and made our weapons. Following the Baoree, we went and sat down a short distance from Madhub's house, and making *Kalee Poojah* we went afterwards up to the house. I was placed on sentry, the others went inside and plundered the houses. While I was on sentry, a man came by me screaming and I hit him with my *lattee.* He ran off into the village and there began to call out. The villagers collected and came to oppose us, they threw bricks at us, we were not able to remain any longer, so left by the same way we came. Coming to the same Baoree, the search commenced. But two of our number were missing, search was made for them, but without success. There was no division, every one took what he had. The next day we went to the houses of the runaways and gave them a beating, they would not admit that they brought away any property. The spy was some woman. The Sirdar was Manick Ghose. There were on this dacoity, I, Manick, Goverdhun, Bhogoban, Ishar Ghose, Muddoo Ghose, Sreeram, Madhub Ghose, Tiea Ghose, Bhogoban Ghose of Myacole, Gomanee Dirzee, Chand Sheikh, Muddoo Ghose. There were about twelve of us in all, we got about sixty or seventy Rs. worth of *mal.*

Question.—Why did you not tell the dacoity commissioner that two men had run off?

Answer.—I did not recollect to do so.

Question.—What were their names?

Answer.—One's name was Takas Kamar, he lives in Baleegunj, the name of the other was Sreeram Chasa.

Question.—Why did you tell the commissioner that there was a search and a division?

Answer.—The search had begun when the two ran away, Madhub Ghose gave me a *saree,* as I was on sentry.

Being interrogated says, I was not in the Ekidala dacoity. I was present at the robbery of the cart on Goberkoolee *maut.* Bhogoban the prisoner was concerned in it. Manick Ghose, I,

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and others, had been to Moorgachee to see the *Poojah* and were going home at about four *ghurrees* of the day remaining, when on the Goberkoolee *maut*, we saw a loaded cart going north, we were going south, Manick said, There's money on this cart let's attack it; all agreed, and each one arming himself with a branch of the *Berandah* bush; at dark I went up to the cart-driver and commenced at once to thrash him, he took to his heels, we searched all over the cart, but could find no rupees. It was loaded with thread and cloths, we each took some and went home, we placed the property with Bycunt Mozumdar. The next day on what clue I can't say, the darogah arrived and seized Muddoo Ghose and Gereedhur Ghose He sent them to the magistrate and they were sentenced. There were in this affair besides me, Manick, Bhogoban, Goverdhun Ghose, Muddoo Ghose, Jadoo Ghose, 2nd Muddoo Ghose and Ishan Ghose. There were five or seven of us in it. I don't know the names of any more. We got 2 or 300 Rs. in this dacoity, Muddoo and Goverdhun having been detected, Bycunt would not give any of us any share of the plunder, he said he had spent it all in the case. Being interrogated says, I told my wife to give the Police 5 Rs. in this case, she gave it. Gungaram Bhutacharje obtained the clue and told the darogah. I and Bhogoban together got Goverdhun apprehended. Being interrogated says, I know Haro Napit, we went on the Bargora dacoity, he lives in Ruggonathpoor. He also went on the Sadunpara dacoity. Looknath Joogee also went on this latter dacoity, he too lives in Ruggonathpoor. You have named Madhub only in the Sadunpara dacoity, did he accompany you in any others? Yes, he was in the Bargora dacoity, none other. Did Khoodee Sheikh go with you in any other, but the Telokepoor dacoity? I don't recollect if he did. Did he go in the Bargora dacoity? No. Do you know Gopal Sheikh? Yes, he was in the Telokepoor river-dacoity, the Andolea, and the Baragachee dacoity. He was not present in the attack on the cart. I can't say exactly if he was in the Bargora dacoity. Chand Sheikh was, besides being in the Sadunpara dacoity, in the Bargora and Telokepoor dacoities. I can't recollect if he was on any others, Gomanee Dirzee went with me on the Sadunpara, Bargora and Telokepoor dacoities. I can't recollect if he went on any others. I know Ozeer Sheikh. I think he lives in Moragachee, he accompanied me in the Andolea, the Kumulnugger and the Bakoonda dacoities. Can't say if he was in any others. Do you know Tazeer Sheikh of Moragacha? Yes, he went in the same dacoities as Ozeer did. Did Sonaie go with you on any other but the Bargora dacoity? Yes, the Andolea, Kotalea and Sadunpara dacoities. Was any other Nobaie but you in the Sadunpara dacoity? No. Recollect and specify what dacoities you have ever committed with the prisoner Bhogoban? *Answer.*—The Kotalea, the Shalgong, the Batsala

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the Nulda, the Punditpoor river-dacoity, the Bagoa, the Bargora, the Sadunpara, the Gobarkoolee, the Kaleenugger and the Patocbanga dacoities.

To try how far the witnesses could be trusted in their denunciation of the prisoner in the particular instances specified, I required Manick to state in how many and what dacoities the prisoner had been engaged with him. He specified seventeen dacoities and these seventeen are the very ones in which Bhogoban's name appears in his detailed confession. In the remaining twenty-three dacoities confessed to by the witness, he neither named him to me or to the dacoity commissioner. The witness Nobaie No. 3, in the same manner specified before me the very dacoities in which he had named the prisoner to the dacoity commissioner. These were eleven in number and in the rest to which he confessed before the dacoity commissioner the name of Bhogoban does not appear. Surely this is a great test and proof of the truthfulness of these witnesses. They had severally committed forty and twenty-three dacoities. In the very same dacoities in which they had denounced the prisoner in their first examination, taken many months ago, in those very same and in none others, they now name the prisoner. Had either statement been given at random, this agreement could never have happened. Had the first been given at random, the last would not have tallied with it, and as witnesses are not tutored before the commissioner for the suppression of dacoity, prior to their examination before the sessions, the only fair deduction to be arrived at is, that each witness has been able, out of the numerous crimes they each committed, (now some years ago) to give with accuracy the particular crimes in which the prisoner joined them, because he was a *particeps criminis* with them in the crime named.

The truthfulness of these witnesses, in respect to the parties denounced by them, is further conspicuous in the near agreement between the two examinations of the same witness and between one witness and another. It is impossible to avoid the conviction that this agreement is other than the sole effect of participation in the same crime. I can myself well recollect the names of many men who formed the two sides in several cricket matches in my school-days, and were these names now required of me and I gave them accurately, it would be convincing evidence that those men and I were the players in the same match. But give me only the names of fifty men on this side and fifty on the other, of whom some played in one match and some in another, it would be utterly impossible that I could from guess, place the different men of each side on five or six different occasions, or that I could recollect subsequently the names I had at first put down at guess. And no more ought it to be held possible that the approver witnesses could have

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spoken from guess, or that having done so once, they could adhere without deviation to the names they originally gave at guess.

Corroboration of approver evidence that the party denounced was in such and such a dacoity is only rarely to be found, and much evidence of this kind in charges of dacoity is not to be looked for. There is, however, sufficient evidence of a corroborative kind against the prisoner as, in my mind, to bring home the charge preferred against him, that he belonged to a gang of dacoits.

In the Bissorumba dacoity the villagers sallied out and arrows were fired by them at the dacoits. A man by name Mudhoo Ghose was shortly after found with a fresh arrow-wound on his leg. He confessed the Bissorumba dacoity and named the prisoner as one of the gang of dacoits on that occasion; he was not to be found at his house when the police went in search of him, and he continued to keep himself out of the way of the police. Mudhoo Ghose was convicted of the crime and sentenced.

Again in the dacoity on the boat of Parbuttee Churn in which a quantity of cloth was carried off, it was discovered that one Birjo Ghose was concerned in it. He was apprehended and confessed and gave up the name of the prisoner who was again found absent from his home There is evidence, however, that his female relatives took various means to get rid of several pieces of cloth, which were doubtless part of the plunder got by Bhogoban out of Parbuttee's boat; but that person could not wait till the investigation was over, and there being no one to recognize the property, the case, which began so promisingly, ended in nothing.

The Jhaodanga river-dacoity was not reported to the police, but the darogah heard that some such dacoity had taken place and that Bhogoban had been wounded in the affair. The Jhaodanga dacoity happened in March, 1850, and Bhogoban was arrested with a cut as from a sword or *krees* on the outside of his left leg above the ankle, on the 24th March, 1850. His own explanation was, that he wounded himself accidentally while cutting bamboos, but the position of the wound renders it hardly possible that he could have wounded himself in the manner he states, while the situation and description of the wound are just such as might be looked for from the way that the witness Manick describes it to have been given. He states that when the dacoits got on board the boat, the Nepalese who were on board armed themselves and attacked the dacoits. In the attack Bhogoban, who was opposite the door of the cabin got a sword or *kreess*-wound on his leg from some one inside the boat, when he immediately threw himself into the water and made his escape. This wound upon Bhogoban at the parti-

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cular time, the rumour how he got it, and the lame account he gave of it himself, impress me very much with a conviction that Manick's testimony against this prisoner is of the most truthful kind.

The prisoner seems to have been well known also to the magistrate of Krishnagore as a river-dacoit, and when that officer resolved to take measures to stop river-dacoities, which were at the time greatly increasing, the prisoner was among the men whom he deemed it requisite to put under security.

He denies the charge, affirms he never committed a single dacoity, and that the approvers have denounced him from motives of enmity. He names witnesses in his defence, who say that they believe him to be an honest man, living by his labor, and are not aware that he is a dacoit.

Upon the testimony of the approvers, corroborated by the above facts, I would convict the prisoner of having belonged to a gang of dacoits and sentence him to be transported for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The Court, after perusal of the papers sent up, directed that the record of the cases in which the prisoner had been released from confinement by the sessions judge, to which he had been sentenced by the magistrate in default of security for good conduct, should be submitted. On reference to those papers, it appears that the witnesses, who deposed on behalf of the prisoner, stated that he had been addicted to dacoity and other crimes, but had abstained from them and lived respectably since receiving a wound in his leg in a dacoity.

Their testimony, therefore, corroborates the evidence of the approvers, and the statements of some persons, who were apprehended in the dacoities, confessed and named him as an associate. We therefore convict the prisoner of having belonged to a gang of dacoits, and sentence him to transportation for life.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

GOVERNMENT ON THE PART OF LUTCHMUN MISSER

versus

NOWRAM (No. 1,) BHYANATH (No. 2,) RATEERAM (No. 3,) CHANNA APPA (No. 4,) BUROHOO (No. 5,) BEJIAH (No. 6.)

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Case of NOWRAM and others.

Four of the prisoners were convicted as accomplices in wilful murder, and were sentenced to transportation for life. Two other prisoners were convicted as accessaries after the fact, and sentenced to minor terms of imprisonment.

CRIME CHARGED.—1st count, murder of Berte Singh Ashwul for the sake of property; 2nd count, being an accomplice and accessary before and after the fact in the above crime; 3rd count, receiving the property and money knowing it to have been acquired by murder, amounting to Rupees 370-8-0; 4th count, being in possession of property acquired in the above murder; 5th count, concealing the murder, knowing it to have been committed.

Committing Officer.—Captain E. A. Rowlatt, magistrate of Kamroop, Assam.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 7th June, 1855.

Remarks by the deputy commissioner.—The deceased Berte Singh Ashwul, was a trader from Beekaneer, and had established a *golah* at Dooreemarah, the prosecutor Lutchmun was his gomastah, the prisoner Nowram No. 1, head, and Burohoo No. 5, and Bejiah No. 6, under, boatmen. The prisoner Bhyanath No. 2, inhabitant of Moamaree was a person employed by the deceased in making advances to ryots for *sirsoo* and other produce.

The prisoner Bateeram No. 3, and Channa Appa No. 4, are likewise residents of the same neighbourhood, and companions of No. 2.

The prosecutor deposed that in Assar last, the deceased with the prisoners Nos. 1, 5 and 6, embarked on a *hoolung* boat or canoe of 80 maunds burden, on a trading expedition, leaving him in charge of the *golah*. From Palasbarree, deceased wrote to him to say that he had gone to collect outstanding balances from the prisoner Bhyanath, and would soon complete his arrangements and return. On the morning of the 10th Shrabun, the prisoners Nos. 1, 5 and 6, arrived at the *golah* and reported that whilst crossing the river the boat was lost in a whirlpool, and the deceased drowned, that they escaped by clinging to poles and oars. After an unsuccessful search had been made for the corpse, the prisoners Nos. 1, 5 and 6, were sent to the Nuggerberah *pharee* to report the matter to the police; some time after, it came to light, that the deceased had been murdered and his property stolen, by his silver waist chain being discovered on

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the prisoner Bhyanath No. 2, and on learning which particular at Pharee Komulpoor, he, prosecutor, lodged his complaint, and gave his deposition. Further that the property in court found with the prisoners belonged to the deceased, and that he gave in a list at the thannah of what the deceased had carried with him.

The prisoners all pleaded *not guilty* to the several charges preferred against them.

The prisoner Nowram No. 1, before the police whilst he denied to having himself killed the deceased, confessed to having gone with the deceased and prisoners Burohoo No. 5, and Bejiah No. 6, and after trading at Palasbaree and other places, they, two days before the murder, moored the deceased's boat near the house of the prisoner Bhyanath No. 2, to take in the *sirsoo;* No. 2, agreed to give some at a place called Kalledeah and taking with him the prisoners Nos. 3 and 4, in a small boat went in company to Komulpoor *chur*, where it was proposed by No. 2, to stop for the night, and cross the river next day, but at midnight when the deceased was asleep, the prisoners Nos. 2, 3 and 4, came from their own boat and strangled him, and threw the body in the Burrampooter, they then took the deceased's silver waist chain, 300 Rupees, and other things to the house of No. 2, who promised to share them afterwards, and at the same time enjoined secrecy; the deceased's boat was then dropt down the river to Chorul Sootee, and sunk, and they (Nos. 1, 5 and 6,) went and reported to prosecutor that the boat had been lost, and the deceased drowned. This prisoner retracted his confession before the foujdary court, alleging it had been extorted from him, and that he had accused the prisoner No. 2, out of spite; and he claimed as his own, the property found in his house.

No. 2, Bhyanath.

The prisoner No. 2, Bhyanath before the police, denied having committed murder, but acknowledged having had transactions with the deceased, from whom he had received advances for *sirsoo*, and that deceased with the prisoners No. 1, Nowram, No. 5, Burohoo and No. 6, Bejiah had come in a *hoolung* boat to his village to purchase *sirsoo*, and moored near his house, and remained there one night; on the following day the prisoner No. 1, secretly invited him and Nos. 3 and 4, to come to receive the property, as he intended to kill deceased: the same afternoon the boat was dropt down stream to Kugragattee *chur*, on the Burrampooter, where it was again moored, and at one and half *pahur* of the night (10-30 P. M.,) Nowram No. 1, took a *goon berooah* or tracking yoke, and with it struck the deceased on the head and killed him, and told us to say that the boat had been sunk, and the deceased drowned, but before crossing the boat for that purpose, No. 1, made over to him the silver chain, and other articles, in all fifty-two, of these he took the

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chain and eighteen other articles, whilst the rest were placed in charge of Nos. 3 and 4, they (Nos. 2, 3 and 4,) saw the murder committed, and on demand he (No. 2,) produced the property; he also admits having committed forgery by altering accounts of transactions with the deceased in an account-book found in his (prisoner's) house.

This prisoner made similar confession before the magistrate, afterwards in the foujdary court he said he made these confessions at the instigation of Pheperre and others; in his defence before the jury he says that he had received the articles, Nos. 38 and 39 from the deceased as an advance for *sirsoo*, that he had purchased articles Nos. 50, 51 and 50, and the remainder he had inherited, but has no witnesses to prove this, he named witnesses to prove that his confession had been extorted.

No. 3, Bateeram.
No. 4, Channa Appa.

The confessions before the police of the prisoners Nos. 3 and 4, are to the same purport as that of No. 2, they further add they had been told by the prisoners Nos. 1 and 2, (when conspiring) that the deceased had a great deal of property. They made similar confessions before the magistrate, but retracted these confessions before the foujdary assigning the same reason as No. 2, and before the jury they claim the property discovered in their possession as their own, and also called witnesses to prove ill-treatment and to the property being their own.

No. 5, Burohoo.

Before the police, denied having had any hand in the murder, or having received any of the deceased's property, but stated that he suspected the murder to have been committed by prisoners Nos. 1, 2, 3 and 4, and that they had removed the property whilst he was asleep, when he awoke he asked where the other boat had gone, and was told by No. 2, that he did not know. On crossing over the river, No. 2 took out the plug, and sunk the boat, and they having escaped by swimming, next day reported to the prosecutor that the boat had been lost, and the deceased drowned, adds that he and No. 6, were sleeping in the front part of the boat on the night in question. Before the foujdary he retracted the above, and before the jury says the deceased was drowned in the boat.

No. 6, Bejiah.

No. 6, before the police denied the charges, and attributes the murder to Nos. 1, 2, 3 and 4, who had conspired for the purpose, and having killed the deceased with two blows in the head with the yoke of the tracking rope, threw the body into the river, that he suspects Bhyanath No. 2, of having taken the deceased's chain and other ornaments; the boat was taken back to the vicinity of No. 2's house into which the property was removed, and that he and No. 5, were promised a share, but

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which they never received. The boat was afterwards sunk by No. 1, taking out the plug, and they pretended to some villagers that it had been lost, and the deceased drowned, they made a like report to the prosecutor. Before the foujdary he denied his having stated what has been recorded by the police, and says the boat was lost, and the deceased drowned. In his defence before the court he claims the property found in his house as his own.

Three witnesses* depose that having gone to assist in building a house for the chowdry of the pergunnah, their suspicions were excited by seeing the prisoner No. 2, wearing the deceased's silver waist chain, of whom it had been given out that he had been drowned, and on the return of the chowdry from surveying, the prisoners Nos. 2, 3 and 4, (then present) were questioned about the death of the deceased. No. 2 said, he had been drowned and his boat lost, but when asked about the silver *har*, he at first remained silent, but afterwards confessed, that at the instigation of Nowram Gooreal No. 1, they had conspired and he had gone with Nos. 3 and 4, to Kugragattee *chur*, where Nowram killed the deceased, and made his property over to them, the others Nos. 3 and 4, admitting to the like story, the chowdry sent notice to the police, on which, under the fear of being beaten, No. 2, produced the articles Nos. 34 to 46. No. 3, articles Nos. 6 to 29, and No. 4, articles Nos. 1 to 5, and made them over to the chowdry.

* Pheppera.
Ruttee Paul.
Battoo Kagotee.

On the arrival of the police-mohurrir they were present, when he apprehended Nos. 2, 3 and 4, and on searching their houses the articles Nos. 30 to 33, were discovered in that of No. 3, and in that of No. 2, articles Nos. 47 to 52, also some papers and an account-book. They all confessed as before. The witnesses recognised the silver *har* or chain to be the property of the deceased. Ruttee Paul further deposes to the deceased having had trading transactions with the prisoner No. 2, for three years, that he last saw deceased at his, witness's, village in *Shrabun* in company with Nos. 4 and 5, where, after taking in some cargo, deceased's boat was dropped down stream and moored near No. 2's house; was afterwards told by No. 2, that the boat had been lost, and deceased drowned, witness Bhoto was present when he No. 2, told him this.

Witnesses Myaram, Jatteeram, Jerreah—Depose to the apprehending of No. 6, and to the search made in the house of No. 1, where articles Nos. 53 and 54, were discovered, and to the discovery in the house of No. 6, of the articles Nos. 55, 56, 57, and twenty rupees, also to the confession of No. 6, that he was on board the deceased's boat when the murder took place.

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Kullonum—Deposes to having seen No. 5, apprehended.

Hurree Singh, Bhogram—Prove the confession made by the prisoners Bhyanath No. 2, Buteeram No. 3, and Channa Appa No. 4, before the magistrate.

Sona Koleeta, servant of the deceased, deposes to the deceased having set out in his boat accompanied by the prisoners Nos. 1, 5 and 6, and to their coming again to the *golah*, and reporting that his master had been drowned, and the boat lost. Recognises the articles Nos. 8, 17, 32, 59 and 61, as having belonged to the deceased, also the silver *har*, No. 34.

Of five witnesses* called by No. 1, in his defence, three depose that they know nothing, and two, that they picked up the prisoners Nos. 1, 5 and 6, on a *chur* of the Burrampooter, who told them that their boat had been lost, none of them appeared in an exhausted state, and witness Norhurree, states to seeing No. 6, sitting down, and No. 5, standing on the bank with *dry* clothes on.

* Andaro. Pepper. Kattre. Abeen. Norhurree.

Four witnesses† depose that the articles Nos. 55, 56 and 57, are the property of No. 6, and they also depose to his having possessed twenty rupees cash of his own earnings.

† Captennoo. Baga Bhoti. Sonaram. Jymul.

Four witnesses‡ called by No. 2, are not able to state any thing in his defence.

‡ Seedee. Arham. Deheram. Boodoo.

I am of opinion that the circumstances of the disappearance of the deceased Berte Singh whose boat was last observed moored near the house of Byanath No. 2, with whom he had dealings, his boatman Nowram No. 1, Beerohoo and Bejiah all giving out that the boat had been lost and deceased drowned, the after-discovery of the deceased's silver waist chain on the person of Byanath No. 2, his confession to the chowdry that the deceased had been murdered by No. 1, who had made the deceased's property over to him, the similar confessions made before the chowdry by Buteeram No. 3, and Channa Appa No. 4, their production of various articles of the property even before the arrival of the police, their full and detailed confessions before the police, and again before the magistrate, the discovery of further articles of the property in their houses, and in the house of No. 2, of an account-book of trading transactions between him and deceased, to which he confessed he affixed a forged receipt of liquidation. The confession before the police made by the prisoner No. 2, who, whilst he accused the prisoners Nos. 2 and 3, of the perpetration of the murder, admits to have been present at the time; the confession of Burohoo and Bejiah coupled with the entire failure of the prisoners to make good their defence, except as

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respects the property found in the house of Bejiah, and that so far from the prisoners Nos. 1, 5 and 6, being in a very exhausted state when taken up after the alleged loss of the boat, one witness remarked that one of the prisoners' clothes were not wet, all prove that the deceased Berte Singh came by his death at the hands of one or more of the prisoners, and that his property was appropriated by them and the boat afterwards sunk, in order to conceal the crime, but there is no direct evidence to prove which of the prisoners actually perpetrated the murder, yet there is a presumption that Nowram No. 1, was the man, as well from his position of Gooreal of the boat, as the implication of the other prisoners. It is proved by their confessions before the police that the prisoners Nos. 2, 3 and 4, had with No. 1, preconcerted the murder and had gone expressly for the purpose, and to share in the plunder, and did so share, and that No. 2, had the further motive of clearing his account of advances received from the deceased. There is no proof that either No. 5, Beerohoo or No. 6, Bejiah had knowledge of the intended murder, or saw it perpetrated, neither is there proof that they received any share of the plunder, but it was admitted by No. 6, in his examination before the police that his silence had been purchased by the expectation of a share of the spoil, and both he and No. 5, have aided in concealing the murder, by falsely reporting that deceased had been drowned.

In the absence of evidence as to which of the prisoners perpetrated the deed, I would convict the prisoner Nowram No. 1, Bhyanath No. 2, Bateeram No. 3, and Channa Appa No. 4, of being accomplices in the wilful murder of Berte Singh, and the prisoner Burohoo No. 5, and Bejiah No. 6, of being accessaries after the fact, No. 5, in a lesser degree; and I would recommend that Nowram No. 1, Bhyanath No. 2, Bateeram No. 3, and Channa Appa No. 4, be sentenced to be imprisoned for life in transportation, and that Berohoo No. 5, be sentenced to two years' imprisonment with labor in irons and Bejiah No. 6, to three years imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The deputy commissioner has given the circumstances of this case in great detail. The evidence against the prisoners is full and clear. We see no reason to interfere with the recommendation of that officer. The sentences will issue accordingly.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

NAZIR TAKAZGEER (No. 1,) GRISH CHUNDER BHADOOREE (No. 2,) JEETOO MANJEE (No. 3,) MOOCHEE PARAMANICK (No. 4,) AND TURRY MUNDUL (No. 5.)

Rajshahye.

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The prisoners were acquitted for want of proof of the violence which was alleged to have caused the deceased's death, and were ordered to be released, the imprisonment which they had undergone being held to be sufficient punishment for throwing the corpse into the water which was proved against them.

CRIME CHARGED.—Prisoner No. 1; 1st count, culpable homicide of Bholai Takazgeer; 2nd count, being an accessary before and after the fact; 3rd count, privity to the said crime; 4th count, illegally seizing and carrying off the deceased on an accusation of theft to the Sampore factory and torturing the said Bholai Takazgeer; 5th count, aiding and abetting in the said torture; 6th count, throwing the corpse into the water by tying a bag full of bricks; 7th count, concealing the same. Prisoner No. 2; 1st count, being an accomplice in the aforesaid culpable homicide; 2nd count, being an accessary before and after the fact; 3rd count, privity to the said crime; 4th count, issuing orders for the said crime; 5th count, concealing the fact. Prisoners Nos. 3, 4 and 5; 1st count, being accessaries after the fact to the aforesaid culpable homicide; 2nd count, privity to the same; 3rd count, concealing the same.

CRIME ESTABLISHED.—Prisoner No. 1, seizing, carrying and imprisoning Bholai Takazgeer, the deceased, in the godown of Sampore factory on a charge of theft, and throwing his corpse into the water to conceal his death. Prisoner, No. 2, ordering the imprisonment of Bholai Takazgeer in the godown of Sampore factory on a charge of theft, and concealing his death. Prisoners Nos. 3, 4 and 5, throwing the corpse of Bholai Takazgeer into the water to conceal his death.

Committing Officer.—Baboo Gopal Lall Mitter, deputy magistrate of Nattore.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 30th April, 1855.

Remarks by the sessions judge.—The following remarks made by the deputy magistrate of Nattore, in 14th column of his calendar, in a manner explain this case, though not very clearly.

"One Ramdhun Shah complained to Grish Chunder Bhadooree, the mohurrir of the Sampore factory, that his master Gree Shah, a *mahajun* dispatched a boat, on board of which were Chandah Sheikh and others as manjees and churrundars, and 395 Rs. worth of salt were entrusted to their charge, to carry

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to Beaghat for sale. On their arrival at the place, the boat had been robbed, and that he had traced the money, the sale proceeds to the deceased, Bholai Sheikh, who at the time was employed as Takazgeer of the factory, as the receiver of the stolen sum. On this, the mohurrir, Bhadooree, sent for the man, who was seized hold off by Nuzri and others, and carried to the factory godown and illegally confined there until the restitution of the stolen money, where he was subjected to torture, from the effects of which he died subsequently; and on his death the prisoners carried the body secretly to the Chullan Bheel about five miles from the factory, when a bag, containing bricks was tied to his loins and then thrown into the water, with a view that the body might not float on the surface."

All that was proved in this trial was, that the deceased had been laid hold of and carried to the Sampore factory, and then by orders of the prisoner No. 2, was confined in the factory godown that night. When he died, or what was the cause of his death, could not be ascertained, as no *post mortem* examination could be held, the body being too far gone when discovered in the *jheel*. It however had no marks on the throat, and therefore the report circulated by No. 1, that the deceased had hung himself was totally unsupported and improbable. That he died when illegally confined at the factory on a charge of theft, there can be no doubt, and to conceal this fact and the whole matter, money was offered to the deceased's wife, and the body with some bricks tied to the waist, was carried and then thrown into the Chullun *jheel*, Nos. 1, 3, 4 and 5, admitting so much in their confessions made before the deputy magistrate, and which confessions they acknowledged having made in the sessions court. No. 2, pleaded in his defence that there were other *omlah* or *head officers* in the factory, and that he could not be responsible for what had occurred. But if such was the case, it was not proved, or the witnesses (almost all factory servants) withheld their names. The factory was the property of the late Mr. J. C. Abbott, and this occurrence took place after his death, and when no European superintendent was residing at the factory. I have, therefore, on their confessions, and the direct proof as to the seizure and confinement of the deceased in the factory godown by Nos. 1 and 2, in concurrence with the *futwa*, sentenced the prisoners as stated below. A great deal of irrelevant matter regarding what the deputy magistrate *heard* from a boy, and what he *saw* in the shape of stones in the godown, might as well have been left out in his *roobakaree* of commitment, as the boy (he states) "did not appear to him to have a competent discretion, or to entertain a sufficient sense of the nature and obligation of an oath," and the stones he never sent up nor could he ascertain their use. He, however, very *unnecessarily* sent in a cart with the bricks found tied to the

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corpse to make it sink, and which the witnesses to its discovery were sufficient to establish.

Sentence passed by the lower court.—Prisoner No. 1, to four years' imprisonment and to pay a fine of fifty rupees; prisoner No. 2, to four years' imprisonment and a fine of one hundred rupees, and prisoners Nos. 3, 4 and 5, each to six months' imprisonment and a fine of twenty rupees, all without irons, and in default of payment of the fines, on or before the 30th May next, to labor until the fines be paid or the term of their sentences expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The record was sent for on review of statement No. 6, the prisoner No. 1, has subsequently appealed.

It is established that the deceased was taken away to the Sampore factory and confined, but there is no proof that he died in consequence of any violence committed by the prisoners.

Nos. 1, 3, 4 and 5, acknowledge they saw the deceased in the godown on the ground, and they all admitted in the foujdary court they helped to throw the corpse into the Chullun Jheel, having been told that the deceased had hanged himself. No doubt, much suspicion attaches to their account of the transaction, but there is no legal evidence to convict them of any participation in causing the death of Bholaie, nor is there proof that they were aware of his having met an unnatural death.

The throwing the corpse into the water is of itself no offence under the circumstances stated by them. The prisoner No. 2, has denied the charge throughout, and nothing has been produced to shew that he gave order that the deceased should be beaten, he merely ordered that he should be confined in the godown.

The period of imprisonment which the accused have already undergone is sufficient punishment for the offence of which they have been convicted. They are to be immediately released.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND GOLUK CHUNDER DOSS

versus

HURCHUNDER DOSS.

Backergunge.

1855.

July 25.

Case of HURCHUNDER DOSS.

The prisoner was convicted of knowingly uttering counterfeit coin and sentenced to three year's imprisonment. Appeal rejected.

CRIME CHARGED.—Knowingly uttering counterfeit coin on the 16th April, 1855.

CRIME ESTABLISHED.—Knowingly uttering counterfeit coin.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 7th May, 1855.

Remarks by the sessions judge.—The proof is clear and sufficient. The prisoner was detected in an attempt to pass off a pice colored with quicksilver as an eight-anna piece. This is a common trick in large bazars. The *futwa* is for conviction, and I have sentenced the prisoner as follows.

Sentence passed by the lower court.—To be imprisoned without irons for three years and to pay a fine of twenty-five rupees, on or before the 7th day of June, 1855, or in default of payment to labor until the fine be paid or the term of his sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We see no reason to interfere with the conviction and sentence in this case, and reject the appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND PUDARUT SINGH

versus

NUNKOO SINGH.

Sarun.

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Case of NUNKOO SINGH.

The prisoner was convicted of the embezzlement of

CRIME CHARGED.—1st count; embezzlement of Co.'s Rs. 359-7, on account of collections of the villages in which he was a gomastah and servant of his employer; 2nd count, theft of Co.'s Rs. 359-7.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. R. J. Richardson, magistrate of Sarun.

Tried before Mr. Henry Atherton, sessions judge of Sarun, on the 17th April, 1855.

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Case of NUNKOO SINGH.

money collected by him as gomastah of his employer and was sentenced to five years' imprisonment.

Appeal rejected.

Remarks by the sessions judge.—The prisoner was gomastah of Sherepore and other mouzahs belonging to his employer Ramchurn Sahoo who, suspecting that all was not right, suspended him from employment in Bhadoon, 1261, F. S. For some little time the accounts were not procured from him, but these were at last brought by the prisoner and the *putwarees*, it is proved that on their examination in Aughun, 1262, F. S., the sum of Rs. 359-7, was found wanting. The prisoner at the time refused to sign the accounts, but promised to pay the balance (vide evidence of witnesses Nos. 1, 2, 3, 4, 5 and 6, as per margin.*) Not doing so, however, he was prosecuted for embezzlement, and the defence set up is an acquittance said to have been signed and granted by Ramchurn Sahoo himself in the previous Sawun. This receipt is denied by Ramchurn Sahoo who appears as witness No. 7, and also by Nuckched witness No. 8, said to have written it, and I doubt not it is a forged document; for a respectable man like Ramchurn Sahoo is not likely at all to have preferred such a charge, if he had really got his money. The prisoner says that enmity has caused the false charge to be preferred, and on his part several witnesses appear to support the defence set up by him, but I attach no value to their testimony. Indeed it appears from the evidence of some of the defendant's witnesses that the prisoner had had a dispute with his employer in regard to the sums received by him. The jury find the prisoner guilty as charged, conviction in the 2nd count, following from conviction in the first, and I concur in opinion with them and sentence him to five years' imprisonment with labor in irons from this date and to pay a fine of Rs. 359-7, realizable under Act XVI. of 1850, for the benefit of Ramchurn Sahoo.

* No. 1, Sheonaryn Lall.
2, Summut Lall.
3, Ramrup Rai.
4, Mahadeo ditto.
5, Heeramun ditto.
6, Heeta ditto.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The evidence against the prisoner, is, in the opinion of the sessions judge, sufficient for conviction. The plea, urged by the prisoner in appeal, is that the appropriation of the money, if proved, cannot sustain the charge preferred against him. We concur with the sessions judge in his finding and sentence, and reject the appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

TRIAL NO. 4.

SUDANUND ROY BURKUNDAZ (No. 1,) PREMCHAND CHOWKEEDAR (No. 2,) NOKOOL CHOWKEEDAR (No. 3,) SISTYDHUR LUSKUR (No. 4,) RAMKISTO LUSKUR (No. 5,) AND RUMANATH ALIAS RUMACHURN CHRISTIAN (No. 6.)

TRIAL NO. 5.

PREMCHAND CHOWKEEDAR (No. 1,) NOKOOL (No. 2,) AND SUDANUND ROY (No. 3.)

24-Pergunnahs.

1855.

July 25.

Case of SUDANUND ROY BURKUNDAZ and others.

The prisoner charged with conspiracy and perjury was acquitted by the Court.

The sessions judge was informed that he ought to have passed sentence on the remaining prisoners with reference to Section 4, Reg. IX. of 1831.

CRIME CHARGED.—*Trial No.* 4. Conspiracy.

Trial No. 5.—Perjury.

Committing Officer.—Mr. H. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 21st May, 1855.

Remarks by the additional sessions judge.—These two trials spring out of one and the same transaction. I agree with the law officer in his conviction of prisoner No. 1, Premchand Chowkeedar, and prisoner No. 2, Nokool Chowkeedar, and in his acquittal of prisoner No. 3, Sudanund Roy, of calendar No. 5, of March, and agreeing with the law officer in his conviction of prisoners Nos. 2, 3, 4, 5 and 6, of calendar No. 4, of March. I disagree with him in his conviction of prisoner No. 1, of the said calendar. The same person in regard to whose guilt I am at issue with the law officer, together with two others, being concerned in both the commitments, this difference of opinion occasions the necessity for this reference to the superior Court for final orders in both the trials.

Denonath Luskur was sent in to the magistrate, charged with having been caught in the act of stealing a cow, the property of prisoner No. 6, Rumanath Christian. It was said that prisoner Nos. 2 and 3, of calendar No. 4, were the parties who seized Denonath in the act, and prisoner No. 1, of calendar No. 4, it was averred, arrived soon after the capture on the spot, and took the alleged thief to the thannah.

When the case came on to be heard by the magistrate, he disbelieved the charge, and putting prisoners Nos. 2 and 3, on their defence for swearing to a false charge, they at once admitted their guilt, and said the whole thing was a conspiracy

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Case of SUDANUND ROY BURKUNDAZ and others.

hatched by prisoner No. 1, of calendar No. 4, to convict Denonath Luskur; prisoners Nos. 4, 5 and 6, were also said to have lent themselves to this conspiracy, and on their appearance, according to warrant, they too admitted their guilt, and agreed in accusing prisoner No. 1, Sudanund, with being the author of it. The prisoner No. 1, averred that he did not know that the charge of cattle theft was false. These proceedings in the magistrate's court were brought to a termination by the commitment of Sudanund, Premchand and Nokool for conspiracy in calendar No. 4, and for perjury in calendar No. 5, and Sistydhur, Ramkisto and Rumanath for conspiracy alone in calendar No. 4.

Premchand and Nokool, both confess that they took an active part in carrying out the object of the conspiracy against Denonath, and they admit that the evidence they gave on oath in the charge of cattle theft against him, was utterly false. I convict them, in accordance with the *futwa*, of conspiracy as laid against them in calendar No. 4, and of perjury as laid against them in calendar No. 5.

Sudanund Burkundaz I consider entitled to his acquittal in both trials, on grounds which I shall presently detail.

Rumanath admits before me that he lent his cow for the purposes of the conspiracy, and afterwards charged Denonath with the theft of it, knowing that it was a false charge The *futwa* finds him guilty of the conspiracy (the only charge brought against him) and I coincide in it.

Sistydhur and Ramkisto both confess that they were asked by Sudanund to take part in the conspiracy and that they agreed to do so, but that they neither of them appeared or took part in the seizure or conviction of Denonath. The *futwa* finds these prisoners guilty of conspiracy, and I think properly so. They admit that they knew. of a conspiracy having been formed to convict an innocent man, and they were in the league. Their silence, when Denonath was apprehended, and perjured evidence was being given against him, was a passive co-operation in the object of the conspiracy, and renders them hardly less guilty in the matter, than as if they had taken a more open part in it.

I now come to consider the case against Sudanund. He has denied throughout that he was aware that Denonath was the victim of a conspiracy. His denouncement by his fellow-prisoners is no evidence against him, and even they admit that he was not present when Prem and Nokool seized Denonath. This is very probably a true statement, for there cannot be the slightest ground for supposing that these prisoners would make the case more favorable to their fellow-prisoners than it really was. Denonath maintains that Sudanund *was* present, and the only other witness in the case who was present at the capture, viz.,

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Gooroochurn, witness No. 4, affirms the same; but there is a grave discrepancy between these two witnesses. Denonath states that the cow was not on the spot where he was first seized. Gooroochurn, on the contrary, positively maintains that Sudanund gave the cow into Denonath's hands, saying "I'll teach you what it is to act the lawyer against me." Where there is such a discrepancy in regard to the person charged, it shakes belief in the rest of the evidence against the same person. It is besides more likely, if Sudanund was really in the conspiracy, that he would purposely not be present at Denonath's capture. It would look more natural that two chowkeedars should seize the thief, and that the *pharee* burkundaz should come up to complete the proof against him. I am therefore more inclined to accept what Prem and Nokool say as to Sudanund not having been present, than the affirmation of that fact by Denonath and Gooroochurn. If evidence then of Sudanund's presence when the cow was brought and given to Denonath, is wanting, there is no other evidence against him. His implication by all the other prisoners raises a presumption greatly unfavorable to him, but the part he acted in the transaction is not incompatable with a belief that he was himself imposed upon, and that he did verily believe the story told to him by Prem and Nokool that they caught Denonath in the act of stealing a cow.

In regard to the charge of perjury, that rests on the question whether Sudanund did go to the spot where Denonath was arrested. It has been shown above that evidence is wanting that Sudanund did appear at any time on the spot where Denonath was arrested. The law officer has accordingly acquitted the prisoner of perjury, a finding in which I coincide.

It is for the superior Court to decide whether Sudanund is guilty of the conspiracy and to pass sentence upon him on that count. It is my opinion that he should be acquitted. The law officer and myself are agreed in acquitting him of the perjury.

Having convicted Premchand and Nokool, in the two trials of conspiracy and perjury, I recommend that they be sentenced to a consolidated term of five years' imprisonment with labor in irons. They were, it is to be recollected, chowkeedars at the time.

Having convicted Sishtydhur, Ramkisto and Rumanath of conspiracy, I recommend that they be sentenced to three years imprisonment each, and to pay a fine of twenty rupees within seven days, or in default of payment to labor until the term expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The only person, with whom the Court can deal in the two cases sent up by sessions judge, is the prisoner, Sudanund, regarding whom there is a difference of

opinion between the moulvee and the sessions judge. We concur with the sessions judge in thinking that there is not sufficient proof to convict the prisoner of conspiracy in case No. 4, for the reasons recorded in the letter of reference. He is therefore acquitted and must be released.

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The sessions judge has referred these two trials.

In case No. 4, he has convicted two prisoners Premchand and Nokool of conspiracy and in case No. 5, of perjury, and recommended five years' consolidated punishment with irons and labor.

In case No. 4, he has also recommended a sentence of three years, with labor in default of payment of fine, upon three prisoners convicted of conspiracy.

The Court observe that the sessions judge is *required to pass such sentence* as he may deem just and proper, and within his competence, in regard to those prisoners whom he may convict or acquit, in concurrence with the *futwa* of his law officer, suspending execution of his own sentence in concurrence with the law officer, till the final sentence or order of the Nizamut Adawlut shall have been received upon the trial of those whose case may have been referred to that court.

The sessions judge's attention is drawn to Section 4 of Regulation IX, of 1831, in which the law is distinctly laid down in the above terms. Let the records of both cases be returned.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT ON THE PROSECUTION OF MONA MAHARAH

versus

BIDDANATH (No. 3, NON-APPELLANT,) MUSST. SOODUNEE ALIAS LOTOKEE (No. 4,) SINGUL MAHARA (No. 5,) BISHEN MAHARA (No. 6.)*

Sylhet. 1855. July 25. Case of MUSST. SOODUNEE *alias* LOTOKEE and others.

The prisoners were convicted of culpable homicide in attempting to procure abortion. Appeal rejected.

CRIME CHARGED.—1st count, prisoners Nos. 3 and 4, culpable homicide of Musst. Aree by administering medicine to procure abortion; 2nd count, prisoner No. 5, being an accomplice in the above charge; 3rd count, prisoner No. 6, being an accessary before and after the fact of the crime charged in the 1st count.

CRIME ESTABLISHED.—Nos. 3 and 4, culpable homicide; No. 5, being an accomplice thereon.

* Acquitted by the sessions judge.

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Case of MUSST. SOODUNEE *alias* LOTOKEE and others.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 29th May, 1855.

Remarks by the sessions judge.—The deceased was the sister-in-law of Singul Mahara and Bishen Mahara, and died from the effect of drugs administered to procure abortion.

The prisoners before the darogah and magistrate make admissions criminating themselves, yet, throwing the blame one upon the other.

Biddanath, before the darogah and magistrate says, he was called in by the prisoner Lotokee, and saw medicine to procure abortion given by her to the deceased.

Lotokee says that the deceased gave Biddanath money to procure drugs for her, that he produced the drug and she, Lotokee, pounded it for him, and returned it when he administered it to the deceased, Singul being present. Before my court also, she made the same admission merely saying in extenuation that she ground up the medicine at the earnest request of Biddanath.

Singul Mahara admitted that he had taken the deceased to Lotokee's house, she being with child by his brother Bishen.

Two witnesses, Musst. Opurba and Koshabah, depose to having seen Biddanath give a drug to Lotokee to grind, which she returned to him after grinding, and which he administered to the deceased, the prisoner Singul being by and aiding by rubbing her neck.

The evidence of these two witnesses would be scarcely worthy of credit, were it not that their presence is admitted by the prisoners Biddanath and Lotokee.

Singul Mahara called witnesses before my court to prove an *alibi*, but they denied all knowledge of his whereabouts.

The deposition of the native doctor proves the death of the deceased to have been caused by the administration of some noxious medicine.

The assessors find the prisoners guilty and I concur in their verdict.

Sentence passed by the lower court.—Each to four years' imprisonment without irons, and to pay a fine of twenty-five rupees on or before the 7th June, 1855, or in default of payment to labor (No. 4, as suited to her sex) until the fine be paid or the term of the sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The Court see no reason to interfere with the sessions judge's orders in appeal by Musst. Soodunee and Singul Mahara. Their petitions are rejected.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MODHOOSOODUN ODHIKAREE.

Hooghly.

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Case of MODHOOSOODUN ODHIKAREE.

The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. E. Jackson, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 14th June, 1855.

Remarks by the additional sessions judge.—The prisoner is charged to having belonged to a gang of dacoits.

The witness, Jadoo Dome, approver, deposes that the prisoner committed dacoity with him on many occasions, and he relates six distinct instances of this crime in which they both participated. These cases are—

1*st.*—A dacoity in the house of a Bhobanee Churn Kooar of Mahipala, thannah Gangoorea, zillah Burdwan, on the night of the 30th April, 1854.

2*nd.*—A dacoity in the house of Hurrynarain Pal, of Connimat Sala, thannah Kotwallee, zillah Burdwan, on the night of the 18th June, 1854.

3*rd.*—A dacoity in the house of Roopchand Moochee of Azapore, thannah Suleemabad, zillah Burdwan, on the night of the 1st June, 1854.

4*th.*—A dacoity in the house of Juggernath Rukkhit of Doloe bazar, thaunah Gangoorcea, zillah Burdwan, on the night of the 25th February, 1854.

5*th.*—A dacoity in the house of Sreeneebas Ghose Gowalla, of Gopalnugur, thannah Kotwallee, zillah Burdwan, on the night of the 17th September, 1854.

6*th.*—A dacoity in the house of Ramdhun Mudduck of Burrur, thannah Suleemabad, zillah Burdwan.

The records produced upon the trial show that these dacoities did really occur, but there is nothing in them, as far as I have been able to discover, to connect the prisoner with those crimes.

The prisoner confessed to thirty-five different dacoities before the dacoity commissioner, and the six spoken of above, are among the number confessed to. His confession is proved to have been given freely and voluntarily by the witnesses before whom it was recorded.

The prisoner pleads guilty at the sessions, admits the confession he made before the dacoity commissioner, and declines to make any defence.

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Case of MODHOO-SOODUN ODHIKAREE.

I would convict him of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The prisoner confesses that he has participated in thirty-five dacoities, and the approver testifies to his having been engaged with him in six of them, in one of which both he and the approver were wounded by the master of the house with a sword. We convict the prisoner of the charge and sentence him to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT

versus

ALI CHAND (No. 31, APPELLANT,) ALI NUKHEE* (No. 32,) MAHOMED* PITTAN (No. 33.)

Chittagong.

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Case of ALI CHAND.

The Court saw no reason for interference.

CRIME CHARGED.—1st count, forgery in having forged a *farkhuttee* or deed of release, dated 9th Ugran, 1209, M. S., with intent to injure Juffer Ali, witness No. 1, and thereupon fraudulently affixed or caused to be fraudulenty affixed the name of the said Juffer Ali, signed as it were (on his behalf) by one Mahomed Ruckim; 2nd count, having caused the said *farkhuttee*, or deed of release to be filed by defendant No. 33, in the moonsiff's court at Sutkanneeah, well knowing the same to have been forged.

CRIME ESTABLISHED.—Having caused a forged *farkhuttee* to be filed in the moonsiff's court, well knowing it to have been forged.

Committing Officer.—Mr. J. R. Muspratt, magistrate of Chittagong.

Tried before Mr. R. H. Russell, officiating additional sessions judge of Chittagong, on the 21st February, 1855.

Remarks by the officiating additional sessions judge.—Ali Chand and his brother Ali Nukhee, Nos. 31 and 32, sued witness No. 1, Juffer Ali, for the possession of certain plots of land in the village of Choheenessa and in support of their claim filed a *farkhuttee*, a deed of release, of conveyance of thirteen *K.* and fifteen *G.* of land in that village from Juffer Ali to themselves.

Juffer Ali denied having given any such conveyance, and on comparing the deed, with the copy of one formerly filed in the

* Released by the magistrate.

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Case of ALI CHAND.

deputy collector's court, in a suit relating to the same lands, it was found to differ therefrom, in several material points. Both documents purport to have been executed by Juffer Ali and on the same date. The document filed in the deputy collector's court, had been taken back by the defendant, so that the copy filed with the *nuthee*, is all that remains to shew what it was, but there is no reason to doubt the fidelity of the copy made.

These circumstances having been brought to the notice of the moonsiff of Sutkanneeah, he questioned Ali Chand and Ali Nukhee regarding the deed.

Ali Chand admitted having given it to his vakeels to file, but subsequently presented a petition, stating that his vakeel had substituted another document for the one given to him.

Ali Nukhee professed to know nothing about the deed, stating that his brother managed the whole case, and that he had nothing to say to it.

The moonsiff judging the deed to be a forgery, sent the case with the prisoners Nos. 31 and 32, and their vakeels, Mahomed Pittan No. 33, and Omed Ali (released by the magistrate), to the foujdary court.

The magistrate committed the prisoners on the above charge on the 29th December, 1854.

The *farkhuttee* bears the name of Ruchunooddeen witness No. 2, as the writer, and Nos. 3, 4, 5 and 6, as subscribing witnesses, they all deny the execution of such a deed on the part of Juffer Ali and their evidence has been consistent throughout regarding the nature of the deeds, actually exchanged between the parties.

Juffer Ali asserts that both, the deed filed before the deputy collector and this, are forgeries; be this however as it may, (and if the credit be given to his witnesses as I think it ought, both must have been forged), it is clear that two deeds of similar purport, though in some particulars disagreeing, relating to lands in the same village, and purporting to have been executed by the same party, in favor of the defendant on the same date, have been filed in two different courts, in suits relating to the same land. It is not possible that both these should be genuine, and Ali Chand's excuse that his vakeel had played him false, and filed a deed substituted by himself, instead of the one received by him, is conclusive against the genuineness of the one now in court.

It is proved, moreover, that Ali Chand offered the deed to other vakeels, who refused to file it, suspecting it to be a forgery, and that after the deed had been filed, and the question of its genuineness had been raised, he took advice from sundry of the vakeels of the court before filing the petitions, complaining of the fraudulent substitution of the deed by his vakeel, acknowledging to them that he had himself caused it to be filed and

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asserting that it was genuine, but as suspicion had been cast upon it, he wanted to know how he was to secure himself from harm.

The deed was given by Ali Chand, to Omed Ali, who made it over to Mahomed Pittan to file. Mahomed Pittan's *vakeelutnamah* was attested only by Ali Chand.

One of the witnesses, the sheristadar of the moonsiff's court was not in attendance, but it did not appear necessary either to myself or the law officer to postpone the trial on his account.

The moulvee has convicted the prisoner Ali Chand on the 2nd count, and acquitted the remaining prisoners.

Ali Chand I convict on the 2nd count, of having caused a forged *farkhuttee* to be filed in the moonsiff's court, well knowing it to have been forged, and sentence him to be imprisoned with hard labor for five years from this date.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The deed is denied by the person said to have written it, and the prisoner's defence that another deed had been substituted for the one delivered by him to his vakeel to be filed in his case failing for want of proof, raises a strong presumption of the prisoner's guilt. We see no reason to interfere with the conviction.

PRESENT:

SIR R BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

Midnapore. 1855. July 27. Case of SREEMUTTY KUMLEE and others.

TRIAL NO. 3, FOR APRIL, 1855.

GOVERNMENT

versus

SREMUTTY KUMLEE (NO. 1,) SARTUCK BUR (NO. 2,) AND RAJA ROODER NURAIN ROY (NO. 3.)

TRIAL NO. 2, FOR JUNE, 1855.

KAZUM ALEE (NO 2,) AND PUDARUTH PANRAY JEMADAR (NO. 3.)

These two cases were disposed of together. In the first case the prisoners charged with wilful murder were acquitted, owing to the deficiency of

CRIME CHARGED.—*Trial No.* 3. Nos. 1 and 2, wilful murder in having out of revenge and with the intention that their criminal intercourse might be carried on with the greater facility so pressed the private parts and throat of Koochil Bullub, that he then and there died, from the effects of that treatment; No. 3, 1st count, being accessary after the fact to the above crime; 2nd count, privity to the above crime.

Trial No. 2.—Nos. 2 and 3, 1st count, privity to the murder of Koochil Bullub, in having wilfully with some ill-intent

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the evidence and in the second case the prisoners who as police officers had inquired into the charge of murder, were also acquitted.

to cause the release of defendants in that case, used their endeavours to conceal or disprove it; 2nd count, being accessaries in the above crime after the fact.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore on the 29th May and 6th June, 1855.

Remarks by the sessions judge.—Trial No. 3. It is in evidence that Surroop Saunt Chowkeedar of the village of Chuck Chand Pota, on the 2nd January, brought intelligence to the thannah of Tumlook, that the body of Koochil Bullub, husband of the prisoner Kumlee, had been found in a field near the village.

The police mohurrir and jemadar were deputed to make a local investigation, and the former represented, on the 3rd January, that Koochil Bullub had died from natural causes. He at the same time sent the corpse to Tumlook, where *post mortem* examination was held by Dr. Bholanath Bose, who in a letter dated 9th March, stated, that death had ensued from a complication of diseases as exhibited in the lungs, heart, &c.

It is also in evidence that on 5th February, an anonymous letter* was sent to the commissioner of the division, setting forth that the prisoner Sartuck Bur, was a paramour of the prisoner Kumlee, that their intrigues had compelled the deceased Koochil Bullub, to leave his home; that returning one night he found Sartuck with his wife; that the two latter seized him and throwing him down killed him by squeezing his testicles and simultaneously placing their hands over his mouth.

* Vide the exhibit marked A.

The magistrate, acting on this information, proceeded himself, on the 25th February, to Chuck Chand Pota, and after arresting the prisoner Kumlee made the enquiries, which have terminated in the commitment. Before the magistrate the prisoner Kumlee made a detailed confession to the intent that the prisoner Sartuck Bur was her paramour, that her intimacy with him had driven her husband from his home; that he returned one night and found both the prisoners in his house; that Sartuck then seized her husband and squeezing the scrotum with one hand and pressing the throat with the other killed him; that Sartuck then took up the body and threw it where it was found by the police. She further stated, that prisoner Raja Rooder Narain, the zemindar, having learnt what had occurred, summoned them to his house, where it was arranged that the real cause of deceased's death should be concealed on condition of the payment of a bribe of Rs. 150, to the thannah mohurrir and jemadar, that this sum was paid by the prisoner Rooder Narain to the police, and that the ameen mookheas of the village of Chuck Chand Pota became sureties for the repayment of that

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Witness No. 4, Suroop Saunt.
" " 6, Kisto Saunt.
" " 17, Mudhoo Mytee.

sum, and that consequently all her husband's property and that of the prisoner Sartuck was attached and sold, and the proceeds made over to the prisoner, Rooder Narain.

The prisoner in this court adheres to this confession and declares it to be true. The other two prisoners plead *not guilty*.

A *post mortem* examination was held by Dr. Bholanath Bose and he represented on the 2nd January, (but according to the letter of 9th March, on the 4th January,) that the man (no name mentioned) sent to him for examination had died from natural causes, that is from disease of the lungs.

Vide his letter to the deputy magistrate of Tumlook, dated 9th March forwarding an extract from a diary, bearing date 4th January.

The evidence for the prosecution, except in the instance of Dr. Bholanath Bose, tends to corroborate the truth of the prisoner Kumlee's confession in every particular, and further to prove that it was the intention of the village police, by order of the prisoner Roodur Narain, to burn the body of the deceased, which intention however was abandoned (also by his order), and the body carried back to the spot where it was originally found; that deceased immediately previous to his death was in good health, and that the body when first discovered indicated no symptoms of having died from disease, but on the contrary, of there having been a severe struggle previous to death, as foam was adhering to the mouth and excrement to the body-clothes.

The prisoner, Sartuck Bur, pleads an *alibi* in defence, which he is unable to substantiate. The prisoner, Rooder Narain, pleads that the witnesses for the prosecution are his tenants and at enmity with him, but he fails to establish the latter fact, and he further pleads that the articles said to have been pledged to raise money to pay the police were in pawn at that time to a party at Midnapore, but the witness cited to prove this is not trustworthy.

The assessors, who assisted at the trial, do not agree in their verdict. One being of opinion that the prisoners are guilty on strong presumptive evidence, the other that although there is presumption of guilt, it is not strong enough to warrant a conviction.

I see no reason whatever to doubt the evidence for the prosecution. The purport of Dr. Bose's testimony is certainly to show that the deceased died from natural causes, but there are circumstances attending his evidence that diminish its value, if they do not render it altogether nugatory.

In the first place there are no traces whatever of the original report alleged on 9th March, to have been previously sent to the

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deputy magistrate (an extract of which Dr. Bose gives in his letter), the diary or memo. book, which Dr Bose has produced in court, contains an entry of a *post mortem* examination held by him on the 4th January, on a person whose name is not specified, and this entry tallies as to particulars with what he stated in his letter of the 9th March, *with one exception*, viz., that at the foot of the memo. in the diary is a note to the effect that the *post mortem* examination was made *on the 2nd January*, which note forms no part of the letter of the 9th March.

The reason assigned by Dr. Bose, for omitting this important note in his letter of the latter date is very unsatisfactory, and since it has apparently been written in different colored ink and contradicts the memo. itself (entered on 4th January,) the conclusion is unavoidable, that the *post mortem* examination was not made on the 2nd January, and if made, was not entered till the 4th January, and that the note is an after-thought added to corroborate the parole evidence, and this inference is strengthened by the fact of Dr. Bose, having carried off with him to Calcutta the memo. Book or Diary, which is a public record, and which was never returned till Dr. Bose brought it with him into court on 28th May.

Dr. Bose states, in his evidence, that when the body was brought to him for examination, he was informed that a rumour was abroad that deceased had met his death by "squeezing the testicle;" yet he entirely omitted all allusion to the circumstance in his letter to the deputy magistrate, nor did it prompt him to make a very strict *external* examination of the body, in short he neglected a most essential part of his duty, which was no doubt the primary cause that influenced the police and the parties answerable for a faithful report of the particulars of Koochil Bullub's death, to conceal the murder and concoct a falsehood.

Dr. Bose, about the time the murder of Koochil Bullub occurred, had incapacitated himself by habitual drinking from performing his duties in an efficient manner.

These and other facts which (though not on record are notorious) render Dr. Bose's evidence valueless and entitled to no weight in arriving at a correct conclusion in this case.

The evidence, which the magistrate in the zealous exercise of his duty has secured, and in spite of the many obstacles which must always attend the sifting of a case in which the police has connived with the offenders, is in my opinion not to be resisted. It is clear, consistent and probable, and the manner of the witnesses at the time of relating it, was such as to carry with it a conviction of its truth.

In the absence however of direct proof, except Kumlee's confession, that Sartuck Bur unaided, killed the deceased, I would convict him and Kumlee on strong presumption as accomplices in the murder of Koochil Bullub, and recommend that

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Sartuck be sentenced to imprisonment for life in transportation, and Musst. Kumlee to imprisonment for life in the district jail with labor suited to her sex.

The prisoner, Rooder Narain, is guilty, in my opinion, as an accessary after the fact, he not only suppressed that which by law he was bound to communicate to the authorities, but took an active part in conniving with the police to conceal a heinous crime and make a false report to the magistrate knowing it to be such, and I would recommend that he be sentenced to imprisonment for five years with labor.

Trial No. 2.—This trial is supplementary to that reported on the 6th instant. It has been unavoidably postponed by the absence of Dr. Bholanath Bose, a witness for the defence whose attendance could not be secured before

The particulars of this case are fully set forth in the report above alluded to, to which I would refer the superior Court.

The prisoners are charged on two counts, first as being accessaries after the murder of Koochil Bullub, and second with privity thereto in concealing a crime they were bound to disclose.

The witnesses for the prosecution depose that both the prisoners conducted the preliminary inquiry held on the death of Koochil Bullub, that they, prisoners, lodged in the house of the prisoner, Raja Rooder Narain, referred to in the other report on the 2nd and 3rd January, that owing to the interference of the latter they consented to suppress the cause of the death of the deceased, and did make a false report of his having died from natural causes.

The prisoner, Kazum Alee, pleads *not guilty*, and that he never went to the house of Raja Rooder Narain on the 2nd or 3rd January, that he was utterly ignorant that Koochil Bullub had met his death from causes other than set forth in his report, as represented to him by the people in the village of Chuck Chand Pota, and further that having once been put on his trial for concealing the murder and acquitted by the magistrate, he cannot be subjected to a second trial on the same charge.

The prisoner No. 3, Pudaruth Panrey, pleads *not guilty*, and in defence sets up an *alibi*, at the time it is alleged he was in the house of Rooder Narain.

The assessors declare the prisoners guilty of wilfully concealing the murder of Koochil Bullub, and making a false report to the magistrate, knowing it to be false, for a certain consideration received from Raja Rooder Narain.

From the parole evidence it is, in my opinion, clear that the prisoners were cognizant of the murder, and that they colluded with the prisoner Raja Rooder Narain for a pecuniary consideration to conceal and to make a false return of the real cause of Koochil Bullub's death.

It is also corroborated by a chain of circumstantial evidence

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leading to the strongest presumption of the prisoners' guilt. The defence of Kazum Alee, that he has been twice tried for the same offence will not avail him. The magistrate in his final decision of the case recorded in the calendar for April, states that there is not proof on record to justify a conviction of Kazum Alee mohurrir and Pudaruth Panrey jemadar of taking a bribe, but that opinion is no bar to either of them being put on his trial on the charges recorded in the indictment.

Government *versus* Sartuck Bur, Musst. Kumlee and Raja Rooder Narain.

The prisoner Pudaruth Panrey fails to establish the plea of *alibi*; according to the record, he was expressly deputed to accompany the mohurrir to investigate the case of Koochil Bullub, and the evidence for the prosecution is conclusive that he did attend the mohurrir till the inquiry had been completed.

I consider both the prisoners guilty, one as accessary and the other as privy to the murder of Koochil Bullub, after the fact. I draw a distinction in the guilt of the two prisoners. The prisoner Kazum Alee, not only colluded with the prisoner Rooder Narain to conceal that which in the exercise of the duty entrusted to him as a servant of the State he was bound to expose, but deliberately represented as true what he knew to be false. The duty of the other prisoner, Pudaruth Panrey, was limited to giving and to his superior in the exercise of his duty. He did not actively participate in representing as true what he knew to be false, but he was culpably silent in concealing that which he was in duty bound to reveal.

I accordingly convict the prisoner Kazum Alee, on the first count of the charge as an accessary after the fact, and the prisoner Pudaruth Panrey, on the second count, of privity, and recommend that the former be sentenced to five years' imprisonment with labor, and the latter to imprisonment for three years with labor, commutable to a fine of 200 Rupees payable within one month.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) There are two cases, the circumstances of which require that they should be taken up together. In case No. 1, prisoners Nos. 1 and 2, are convicted by the sessions judge of being accomplices in the murder of Koochil Bullub.

The offence was committed on the 1st January, 1855. The corpse of the deceased was found in a field and was reported to the police the next morning; no marks were visible nor was any suspicion raised against any one though the prisoner No. 3. the zemindar, sent in information throwing doubts on the subject. Further enquiries were however made by the police, which concluded by the magistrate declaring that no proof of the

1855. July 27. Case of SREEMUTTY KUMLEE and others.

occurrence of the murder was adduced. It was not till the 24th of February, that any further steps were taken, when on the receipt of an anonymous petition, the magistrate directed the police darogah, named therein, to institute further enquiries, and himself proceeded to the spot. On that day the prisoner No. 1, Musst. Kumlee, was examined; she did not confess, but in her answer said that her husband, the deceased Koochil, had formed a liason with another woman, and that she had been told his body was found in an open field. On the 26th, however, she made a confession which she repeated before the sessions judge, to the effect that prisoner No. 2, Sartuck Bur, had committed the act in the manner described in the letter of reference. She had however twice previously been examined, and stated, she was altogether ignorant of the cause of her husband's death. Two witnesses Musst. Pearee and Teetoo Bullub *now* came forward and gave evidence to having seen the assault and described it minutely, their depositions in the foujdary court and in the sessions are at variance with each other and differ materially from what they stated themselves at other periods of the investigation. In fact, save in the allegation made by Musst. Kumlee, there is nothing on the record to shew that a murder was committed, credible evidence there is none, and in the absence of all proof that the deceased died an unnatural death, the prisoners must necessarily be acquitted. The confession of No. 1, is no evidence against No. 2, and its terms do not make her an accomplice in the murder. Of itself, and unsupported by circumstantial evidence, it will not sustain a conviction; the prisoners must be released.

As no proof of the murder has been adduced, the prisoner No. 3, charged with being an accessary after the fact, must be acquitted also. It is alleged that he took 150 Rs. from the prisoners to pay the police *amlah*, no one saw this though some of those who have been examined speak of having ***heard*** that such was the case. The prisoner will immediately be released.

Case No. 2, in the calendar contains charges of privity to the above murder, and of being accessary after the fact, against Pudaruth Panrey and Kazum Alee, the jemadar and mohurrir who were deputed to make the local investigation. As the Court have decided in the case No. 1, that there is no sufficient proof of murder having taken place, these prisoners are also acquitted and will be released on receipt of the Court's orders.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

GOPAUL KOTMUL BOONA.

Hooghly.

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Case of GOPAUL KOTMUL BOONA.

The prisoner was convicted on his own confession of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Seker Roy, deputy magistrate under the commissioner for the suppression of dacoity.

Tried before Mr. C. Steer, additional sessions judge, on the 15th June, 1855.

Remarks by the additional sessions judge.—The prisoner stands charged with having belonged to a gang of dacoits.

The only witness brought forward against him, is Deybee Ghose, an approver on the establishment of the commissioner for the suppression of dacoity.

He relates the particulars of one dacoity which he committed in company of the prisoner. This was a dacoity in the house of Petumber Bose, of Muddoo Sreerampore, thannah Santipore, zillah Nuddeah, on the night of the 7th July, 1843, property to the amount of 660 Rupees was plundered. The prosecutor got hit by a brick-bat thrown by the dacoits, but no other person was injured. The dacoits left the premises without molestation. The witnesses said, they recognized several of the dacoits, but were not believed, and the parties named were set at liberty by order of the magistrate.

The prisoner confessed before the deputy magistrate under the commissioner for the suppression of dacoity, to fourteen distinct dacoities, among which is the Muddoo Sreerampore case. His proved confession has been read in evidence against him at the trial. He seems latterly to have allied himself to a gang of dacoits living near Santipore, and from the similarity of the names given by the prisoner, of parties he was lately associated with, with those who were concerned with him in the Shoomra dacoity, the Santipore gang seems to have been largely recruited by members from the gang of a well known former dacoit, by name Golab Roy, whose imprisonment in the Shoomra dacoity led to the breaking up of his gang; but unfortunately for society, and like the history of every other gang, and worse than the fabled Hydra, the cutting up of one gang, only gave rise to the creation of several.

The prisoner pleads guilty to the charge on his trial before me, admits his confession given before the deputy magistrate under the dacoity commissioner, and has nothing to say in his defence.

1855. July 27. Case of GOPAUL KOTMUL BOONA.

Convicting the prisoner Gopaul Kotmul Boona, of the charge of having belonged to a gang of dacoits, I recommend that he be sentenced to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) We convict the prisoner on his own confession, which gives a detailed and consistent narration of the numerous dacoities in which he has been engaged from his youth up, and which he has admitted before the sessions court, and sentence him to imprisonment for life.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT

versus

MADHUB ALIAS MODHOO HAREE.

Hooghly. 1855. July 27. Case of MADHUB *alias* MODHOO HAREE.

The prisoner was convicted on his own confession of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Seker Roy, deputy magistrate under the dacoity commissioner.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 15th June, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits.

The witnesses against him are two approvers, Jadoo Dome and Sona Fukeer, and they implicate the prisoner in four different cases of dacoity committed by him in their company. The gang, of which the prisoner is accused of having been a member, consisted of pretended Fukeers, of whom Kangalee was the leader, and whose case is now under reference to the sudder. Vide my letter No. 36, dated 1st June, 1855.

The dacoities they depose to are—

1*st*. A dacoity in the house of Ishur Paul of Bainchee, thannah Pandooah, zillah Hooghly, on the night of the 17th January, 1855.

2*nd*. A dacoity in the houses of Nathooram Dey and Gopal Dey of Chapatee, thannah Pandooah, zillah Hooghly, on the night of the 16th March, 1853.

3*rd*. A dacoity in the house of Golam Russool of Bittasul, thannah Pandooah, zillah Hooghly, on the night of the 1st July, 1853.

4*th*. A dacoity in the house of Khoda Bukhsh of Allipore, thannah Pandooah, zillah Hooghly, on a night in Chyte, 1259.

I annex a brief account of each dacoity and how the investigation of it terminated.

1855. July 27. Case of MADHUB *alias* MODHOO HAREE.

The Bainchee dacoity.—In this affair, the owner lost 45 Rs. worth of property, no one was hurt or maltreated, and on the assemblage of the villagers, the dacoits fled, no one was suspected, no one was apprehended.

The Chapatee dacoity.—The owners lost altogether nearly 20 rupees worth of property. A relative of one of the owners of the plundered houses got a blow in the head from one of the dacoits. No one was suspected. No one recognized, and no clue whatever was obtained as to who the perpetrators were.

The Bheetee Seenee dacoity.—Here 118 Rs. worth of property fell into the hands of the dacoits. Nepal Chowkeedar made some attempt to capture the dacoits, and though unsuccessful in that respect at the time, he was able to recognize some of them. One of the men recognized was Jadoo Dooba, who confessed the crime and named some of his associates, who were committed and sentenced at the sessions. Their names however are not given by either of the approvers, or by the prisoners, in their confessions, and I much fear that there is good reason from this circumstance to question the propriety of the conviction of the parties formerly committed to the sessions.

The Allipore dacoity—was altogether concealed at the time. When the approver Jadoo Dome gave his confession, the dacoity commissioner deputed his sheristadar to enquire whether such a dacoity did ever take place. The house having been pointed out by the approver, the owner admitted the dacoity, of course nothing was known at the time of the parties who committed this crime.

The prisoner confessed before the deputy magistrate under the dacoity commissioner. His confession to twenty-four distinct dacoities, among which are the four cases particularized by the approvers is duly attested by the witnesses who were present when he made it, and has been read as evidence at the present trial.

The prisoner pleads guilty to the charge before my court, admits his confession given to the dacoity commissioner, and declines to make any defence.

I would convict him of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) We convict the prisoner of the crime charged on his plea of guilty throughout, and his detailed confession to participation in twenty-five dacoities. which is corroborated with respect to several of them by the testimony of the approvers, and sentence him to transportation for life.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

Cuttack.

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The drug (*dhutoora*) not being usually poisonous, the conviction was altered to administering an intoxcating drug.

GOVERNMENT

versus

BHOGOBAN SAHOO.

CRIME CHARGED.—1st count, administering a narcotic poisonous drug to witness No. 1, with a view to robbing him; 2nd count, stealing from the above person property valued at Rs. 1-4; 3rd count, receiving the above property knowing the same to have been stolen on the 30th April, 1855.

Committing Officer.—Mr. W. Brown, deputy magistrate, subdivision Bhuddruck.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 28th May, 1855.

Remarks by the sessions judge.—The following are the particulars of this case, as related by Ram Doss, the individual to whom the poisonous drug *dhutoora* was administered, and the witnesses to the apprehension of the prisoner.

Ram Doss, witness No. 1, a mendicant, native of Oojeinuggur, in the province of Malwa states, that he was proceeding on a pilgrimage to Juggernauth, when (on the 29th April last,) he was joined at about eleven A. M. at the Simleeah *chutty*, on the road between Balasore and Bhuddruck by the prisoner Bhogoban Sahoo, whom he had observed following him from the "Kansbans" bridge, and who accosted him, asking whether he was going to prepare any thing to eat? And on his replying that if any person would give him any thing, he would cook it. The prisoner purchased some *dall* and rice, as well as a *handee* and some wood, and he cooked the rice and *dall*, of which they both partook. That at about four P. M., they left the Simleeah *chutty* and proceeded together as far as the village of Raneetulao, which they reached between seven and eight P. M., and the prisoner then gave him some *choora*, which after moistening with a little water he eat, and shortly afterwards became perfectly insensible and remained so for about thirty-six hours, and what took place in the interval, or when his property, a brass *lotah* and bowl, were taken, he knew not. He further states that the prisoner gave him one pice to purchase *ganjah* on his arrival at Raneetulao, but there was none to be had, and he eat none that day.

The prisoner pleaded *not guilty* to the charges preferred against him, and stated, that if he had intended to steal Ram Doss's property, he would have absconded, instead of which he

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asserts he was sitting near Ram Doss with it in his possession, when he was apprehended.

Oordhub Singh Burkundaz, witness No. 2, deposes that at about 8 o'clock on the night in question, he found Ram Doss, witness No. 1, wandering about naked in a state of insensibility or mental derangement; that on being informed by one of the shopkeepers in the bazar that he had seen another person in company with him, he, deponent, went in search of the said individual, and about one hundred *haths* to the south of the bazar, found the prisoner making off with a *lotah* and *dibia*, and brought him back to the place where Ram Doss was, and on searching him, found a quantity of *dhutoora* tied up in a piece of rag in his waist. That on Ram Doss's coming to his senses towards morning, on the second day after the occurrence, he claimed the *lotah* and *dibia* as his, and said that the prisoner had given him some *choora*, and the prisoner who had before claimed the *lotah* and *dibia* as his own, stated that he had taken charge of them to prevent any other persons taking them. And he afterwards took Ram Doss with the prisoner to the Balagushtee jemadar, who forwarded him to the thannah.

Dam Doss Chowkeedar, witness No. 3, Bhujun Bearah, No 8, Lokhi Bearah, No. 9, and Mudhoo Sahoo, No. 10, deposed generally to seeing Ram Doss in a state of insensibility; to the apprehension of the prisoner, his having stated in the first place, that the *lotah* and *dibia* were his own, and afterwards admitted that they belonged to Ram Doss, stating that he took charge of them to prevent their falling into other persons hands, and to the *dhutoora* having been found in the waist of the prisoner, when his person was searched.

Sadhoo Sahoo, witness No. 11, deposed that he saw Ram Doss, witness No. 1, and the prisoner at about 7 o'clock P. M. lying together a few *haths* in front of his shop, after which he went away to his house to eat, and on his return found the burkundaz, witness No. 2, in charge of the prisoner, and Ram Doss in a state of insensibility, &c.

Ali Buxsh, native doctor, witness No. 12, deposed that *dhutoora* is a poisonous vegetable substance, and when taken in any quantity will cause death.

Bhogoban Sahoo, the prisoner, in his examination recorded before the police darogah, on the 3rd of May, stated that three days previous thereto, the prosecutor (Ram Doss) asked him for some *choora* at the Rancetullao bazar; that he gave him a handful, which he eat, and that he eat a like quantity himself; that he afterwards gave Ram Doss one pice, with which he purchased some *ganjah* and opium, but when he got them, he did not know, and after eating them he became insensible (*pagul*), and he, the prisoner, took charge of his *lotah* and *dibia* lest any one else should take them.

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He also admitted that the *dhutoora* was his, and asserted that he was in the habit of applying it to his body, when suffering from fever in order to allay the heat or burning. He further stated that he joined Ram Doss at the "Kansbans bridge," and accompanied him first to the Simleeah bazar and thence to Raneetullao, as deposed to by Ram Doss; that he was going to Pooree, having quarrelled with his son, and that he begged his food as he proceeded along the road.

The examination of the prisoner before the deputy magistrate, on the 4th May, is exactly to the same effect as the above.

Rughoo Goween, witness No. 4, Bhogoban Sahoo, No. 5, Bulbanund Mhainty, No. 6, Kissory Doss, No. 7, deposed, the former two, that the mofussil statement, and the latter too, that the foujdary statements of the prisoner, were voluntarily made.

The prisoner on being asked at the close of the trial if he had any thing to state in his defence, simply denied having administered any poison, or stolen Ram Doss's property.

The *futwa* of the law officer declares, that there exists violent presumptive proof of the prisoner's guilt, and accordingly convicts him of the crimes charged, and in this verdict, I fully concur; for the facts of the prisoner's having joined Ram Doss Byragee, who was a perfect stranger to him, at the Kansbans bridge, and accompanied him, first, to Simleeah and thence to Raneetullao, and given him pice at both places to purchase rice and *ganjah* and other articles, notwithstanding he himself, as he alleges, was begging his way to Pooree; Ram Doss having become insensible shortly after eating the *choora*, given to him by the prisoner at Raneetullao; the prisoner's having made off with Ram Doss's *lotah* and *dibia*, and the *dhutoora* having been found on the prisoner's person, all furnish incontrovertible proof in my mind that the prisoner administered *dhutoora*, or poisonous drug, to Ram Doss and robbed him, while he was in a state of insensibility produced by the poison; and in conformity with Circular Order No. 291, of the 7th May, 1824, and Construction No. 365, I recommend that the prisoner, Bhogoban Sahoo, be sentenced to imprisonment in transportation for life.

In submitting this report, I beg to bring to the Court's notice that in consequence of the great difficulty I experienced in making the prisoner hear or understand the questions put to him, and the imperfect and unintelligible manner in which he answered them, I forwarded him, through the magistrate of Balasore, to the civil assistant surgeon, and requested him to observe his conduct for three or four days to enable him to pronounce an opinion as to his real state of mind and body. And from his report of the 27th May, and his evidence taken before this court, on the 28th idem, it will be seen that the prisoner's condition is as follows, viz., "he is of advanced age and infirm,

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Case of BHOGOWAN SAHOO.

very deaf, articulates with great difficulty, is subject to asthma, and has likewise partially lost the use of one leg and arm. But he exhibits no symptoms of being of unsound mind."

With reference to the above, I beg to state that though the prisoner appeared while in court to experience great difficulty in rising or standing up after sitting down, I observed him when returning from the circuit house in the direction of the jail with the other prisoners to walk quite as fast as any one of them, though in a somewhat ricketty gait, and I by no means consider that he is in any way incapacitated from committing the crime charged against him. Mr. Assistant Surgeon Perkins, informed me that *dhutoora* is sometimes inhaled in cases of asthma, though not rubbed into the body as stated by prisoner for fever.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We concur with the sessions judge, except in convicting the prisoner of administering a *poisonous* drug. There can be no doubt that *dhutoora* was the drug used on the present occasion, but unless under very peculiar circumstances it has only an intoxicating* effect. We therefore convict the prisoner of administering an intoxicating drug with a view to theft, and of theft, and sentence him to seven years' imprisonment with labor in irons in banishment.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

v.

NOBIN DASS KOIBURT.

Hooghly.

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Case of NOBIN DASS KOIBURT.

The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. E. Jackson, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 15th June, 1855.

Remarks by the additional sessions judge.—The charge against the prisoner is, that he belonged to a gang of dacoits. He was of the gang, known as the Chandernagore gang, of which he seems to be almost the last man, the rest of the gang having been extirpated by death, or by a judicial sentence, which death alone will terminate.

* See Chever's Report on Medical Jurisprudence in the Bengal Presidency, pages 31, 2, 3.

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Case of Nobin Dass Koiburt.

He seems to have been known to the dacoity commissioner in connection with the Chandernagore gang for some time past, but he was not called to account, until it was known that he had been apprehended by the Chandernagore authorities, with suspicious property. The dacoity commissioner then asked the Chandernagore authorities to make the prisoner over to him, and this being done on the 13th December, 1854, the prisoner, on the day following, freely admitted the charge on which he is now arraigned, and gave a list of eight dacoities, at which he had been present. In verification of his own statement to the above effect, he stated that the gold necklace and the figured silk-piece were part of the booty obtained in two different dacoities, the first article having been obtained in the Taleeneepara dacoity, and the last having been presented to him by Satcowree Dhoba, the head of the Chandernagore gang, who got it in the Balcooli dacoity.

The records of cases produced upon the trial show that the eight dacoities, specified by the prisoner, did really happen.

The witnesses produced at the trial in support of the charge, are Beharry Singh, an approver, the witnesses to the confession, and the sufferers in the Taleeneepara and Balcooli dacoities.

The approver relates two cases in which he was accompanied by the prisoner. These are the Taleeneepara dacoity, and the Sheebdaspoor dacoity. The Taleeneepara affair was reported as a very unproductive one for the dacoits, who are said to have only carried off a few pieces of old cloth to the value of twelve annas. In the Sheebdaspoor dacoity, property to the value of 485 Rs. was carried off, but the investigation made into the case did not succeed in tracing the crime to the proper parties.

Witness, No. 4, Tarachand Das Moonshee, deposes that a gold necklace was part of the property carried off by the dacoits, when his house was attacked, that from the figured device on the clasps of the necklace, he is certain that the clasps are his property, and he believes that the small gold balls, or links composing the ornament are his also.

When the dacoity happened, this same witness stated that he lost only twelve annas worth of property. This was doubtless done to escape from the trouble which a lengthened enquiry and search for property was sure to entail. Unless twelve annas was all he had, it is not likely that the dacoits would have been content with twelve annas, that he had more than twelve annas, is to be presumed from the man's appearance, rank and position in life, I am not inclined therefore to distrust his present statement, because it is opposed to his former one, and think that he would not have recognized the ornament now, unless it had really been his.

Witness No. 5, Boikunt Chuckerbutty, the owner of the house in the Balcooli affair, is not so certain that the piece of figured

silk cloth is his, he had a cloth like it, which was part of the plunder carried off by the dacoits, and he has little doubt that the cloth in court is the identical one of which he was robbed. Referring to the inventory given in at the time, I find it contains a cloth of the same description as that found on the prisoner.

1855. July 27. Case of NOBIN DASS KOIBURT.

Witnesses Nos. 2 and 3, Uddoito Koondoo and Ishanchunder Dey, establish that the confession of the prisoner before the dacoity commissioner was free and voluntary.

Understanding that the prisoner is not to be kept as an approver, I told him to discard any such hope, and to make the best defence he was able. He adhered to his confession and declined to say any thing in his own favor.

Upon the evidence of the approver and upon the confession of the prisoner, confirmed as it is, by the discovery of property obtained by the commission of dacoity, I would convict him of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The prisoner confesses from first to last and produces two articles, a gold ornament and a silk piece, which he admits having obtained in two dacoities. The first has been recognised by the owner, and the last has been found entered in the list of the plundered property furnished at the time We, therefore, convict the prisoner of the charge of having belonged to a gang of dacoits, and sentence him to transportation for life.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND TOOLSEE MUHTO

versus

BIDASEE (No. 3,) MADHUN (No. 4,) LALLJEE (No. 5,) JEETUN (No. 6, APPELLANT,) BOOLKA (No. 7, APPELLANT,) SUTTEHWA (No. 8, APPELLANT,) DHUNPUT No. 9,) DHUNPUT 2ND (No. 10, APPELLANT,) AND GOORSURUN (No. 11.)

Patna. 1855. July 27. Case of JEETUN and others. Appeal rejected.

CRIME CHARGED.—1st count, dacoity in the house of the prosecutor, Toolsee Muhto, and plunder of property of the value of Rs. 1,132-14; 2nd count, possessing a portion of the stolen property, knowing the same to have been acquired by dacoity.

CRIME ESTABLISHED.—Having stolen property in their possession, knowing it to have been acquired by dacoity, unattended with aggravated circumstances.

1855. July 27. Case of JEETUN and others.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 10th May, 1855.

Remarks by the officiating sessions judge.—The trial of this case has occupied two whole days, yesterday and to-day. The prosecutor, who is a Jhet ryot and a man of property in mouzah Juniar, accuses prisoners Nos. 3, 4, 5 and 11, of the dacoity and of having the stolen property found afterwards in their possession, and Nos. 6, 7, 8, 9 and 10, of the latter crime only, and he asserts that on the night of one Tuesday at the latter end of last Phagoon, a body of from forty to fifty broke with open violence into his house and carried off property to the value of Rs. 1,132-14, tearing a jewel from the ear of his son, Goorsurun, and injuring his ear thereby.

But it appears from the admission of prosecutor, and from the evidence of the witnesses that prisoners Nos. 3, 4, 5 and 11, are men of landed property, living in two villages contiguous to prosecutor's village Juniar, called "Chuck Zahra" and "Manpoor;" that there are boundary disputes between the villagers as to certain lands and water-courses, in which the people of prosecutor's village have been worsted, and that neither the prosecutor nor the Gorait, nor either of the two chowkeedars, Gindowree and Jeetun, who came up as the dacoits were running off, recognized any one of them at the *time*, for the Gorait gave notice at the thannah the same night, after an interview with the prosecutor, and could *specify no one*, while of the three witnesses to the fact, the first, Dhunnoo, is prosecutor's uncle, and only gives one name that of the prisoner Goorsurun, the prisoner, Bidasee Dass's son; the second "Ootim" says, he was with the prosecutor while the offence was going on, and that he recognised prisoners Nos. 3, 4, 5 and 11, amongst the dacoits. Mangur, the 3rd witness, recognizing the same, all but No. 11. If this were true, prosecutor would have been able to report through the Gorait the names of at least some of the offenders, which, as I said before, he could not do, and moreover it is unlikely that of forty or fifty persons the only three witnesses should have recognized the same four persons only.

The charge of having the property stolen (and that there was a dacoity at prosecutor's house, there is, I think, no doubt) in this dacoity is proved against Nos. 6, 7, 8 and 10. They all admit the property produced was found in their possession. Prosecutor has produced evidence identifying it as his, and while No. 6 confessed both at the thannah and before the magistrate, (as is proved by the witnesses to the confession,) No. 7 says, the property is not his, and Nos. 8 and 10 have failed to prove that the property found with them and identified as prosecutor's, is, as they allege, their own, by legal acquisition. Nos. 7 and 8's own witnesses too *give them* a bad character.

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Case of JEETUN and others.

With regard to No. 9, I am of opinion, that the property found upon him is his own, and that he is a respectable man.

I have tried this case with a jury, and in concurrence with their verdict, I acquit prisoners Nos. 3 to 5, 9 and 11, of the charges preferred against them, and I convict prisoners Nos. 6, 7, 8 and 10, of having stolen property in their possession, knowing it to have been acquired by dacoity unattended with aggravated circumstances, and I sentence them each to seven years' imprisonment with labor and irons. The property found in these four prisoners will be made over to prosecutor, and that found with the remaining prisoners, to the said prisoners.

This case, as against prisoners Nos. 6, 7, 8 and 10, has been, I think, accidentally brought to light through the dexterity and ready wit of a distant relative of prosecutor's, who resides in the village of Busain, zillah Behar, viz. Kewul Muhto.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoners make no defence in their appeal, and the witnesses cited by Nos. 6, 7 and 8, in the sessions, give them a bad character. Prisoner No. 10, has failed to prove his own right to the property found in his possession. Under these circumstances we see no reason to interfere with the order of the sessions judge and reject this appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

MUSST. NOWABI PROSECUTRIX AND GOVERNMENT CO-PROSECUTOR

versus

AYENUDDIN.

Tipperah.

1855.

July 28.

Case of AYENUDDIN.

Prisoner charged with rape acquitted owing to the inconsistency of the evidence, the improbabilities of the case, and the delay in preferring the charge.

CRIME CHARGED.—Committing rape on the person of the prosecutrix.

Committing Officer.—Mr. A. Abercrombie, magistrate of Tipperah.

Tried before Mr. E. Radcliffe, officiating sessions judge of Tipperah, on the 19th June, 1855.

Remarks by the officiating sessions judge.—The cause of this reference is a difference of opinion between the law officer and myself, regarding the prisoner's guilt. I think the crime is proved, but the Mahomedan law officer would acquit the prisoner because two of the three eye-witnesses deposed to having seen him ravish the prosecutrix in a public thorough-fare, and being of the prosecutrix's own caste would naturally have prevented him, and further that the evidence for the prosecution

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shows that the prisoner's father, not the prisoner himself, solicited forgiveness.

The state of the case is as follows:—The prosecutrix, a married woman, of about twenty years of age, of the pedlar caste, was on her way to sell spices at Noornugur, when passing near a house in which the prisoner's father lived, the prisoner previously unknown to her, seized her by the hand, and led her to a bamboo jungle where he threw her down and committed the assault on her person; that on crying out, witnesses Nos. 1, 2 and 3, having heard her screams, came to her assistance, when prisoner decamped; that she was then naked, but having put on her clothes which the prisoner had stripped off her, she told the whole of the circumstances to the abovenamed; that in consequence of her husband's absence, and prisoner's father being desirous to compromise the case, she did not complain at the thannah for some days.

In the mofussil she did not assign the latter cause for delay, nor before the magistrate, or in this court could she say in which direction she was thrown down, but to these replies I do not attach much consequence, for, in the hurry of an assault of the nature complained of, a timid peasant girl is not likely to have taken much notice of the locality or the position in which the crime was perpetrated.

The prisoner pleads *not guilty* and offers a different plea at every examination; 1st in the mofussil he deposed that he and witness No. 1, went on the day in question to cut bamboos; that at noon, prosecutrix went past, when Sudderoodeen ran up and prosecutrix cried out; that on his going home, his father Akbur and witness No. 11, Buckshee called him and said Sudderooddeen accuses you, you had better throw the blame upon him; that he had no acquaintance with prosecutrix; secondly, before the magistrate he declared that Sudderooddeen who is his servant, disobeying him, he abused him; that Sudderooddeen had an intimacy with prosecutrix, and to avenge himself for abusing him had trumped up this complaint; that prosecutrix's brother-in-law and husband came to catch birds near his house, and this he would not allow; that he was at one Fuqeer Mahomed's on the day in question; that he had three witnesses to prove this fact and on their being summoned (amongst whom was Fuqeer Mahomed) no one knew any thing of the alleged circumstances; thirdly, in this court he stated that naib Ramcomar had planned this case in collusion with prosecutrix's relatives in consequence of his father having supplied Mr. Lamb, with a list of the monies appropriated by that gentleman's naib who had entered into a contract with his master for the cultivation of safflower, but had no evidence in support and did not require that of those witnesses that were present.

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Witness No. 1, Sudderooddeen, is the cousin and servant of the prisoner, he deposed that he and Ayenuddin went together to cut bamboos, and at noon the prisoner went to his house by a northerly route, whence he pursued a southerly one; that hearing a woman's cries he went and saw the prosecutrix in a thick bamboo jungle a few paces from a road not generally frequented, in the act of being ravished by the prisoner; that he abused him, when witnesses Nos. 2 and 3, who were at some distance, coming, saw the woman naked and the prisoner upon her; that the prisoner then ran away; that prosecutrix having detailed the whole of the previous circumstances to witnesses Nos. 2 and 3, went away, that the woman's head was turned towards the east.

Witnesses Nos. 2 and 3, Gaiboollah Baddiah and Golly Badiah depose that their boat being moored half a mile distant on the Noornugur Khal, they went to catch birds, and hearing female cries they ran towards the place and saw the prisoner upon the prosecutrix; that witness No. 1, was abusing the prisoner; that they did not witness the rape but saw prosecutrix crying and the prisoner decamp; that as soon as she had put on her clothes she told them the mode in which she had been treated, and then went away, and witness No. 1, Sudderooddeen repeated every thing to them.

Witness No. 4, Hashim, heard cries in the bamboo jungle, saw prisoner running away, and heard he had ravished prosecutrix.

Witness No. 5, Loby Badiah, heard from prosecutrix of the ill-treatment she had sustained.

These witnesses* depose that in Bysack the prosecutrix's brother-in-law Chunoo and Chunoo's brother Annoo, requested their attendance at the house of witness No. 9, to hold a *punchayet*, that they stated their relative had been ravished by Ayenoodin, who not appearing when summoned, his father Akbur was called, and informed that the *punchayet* had decided that the rape had been committed and a complaint must be lodged. In reply Akbur said that he was not at home when the rape occurred, but that on his return he heard of it, but whether it was true or not, God only knew if true, he entreated pardon. Witnesses Nos. 11 and 12, seem very respectable men, and gave their evidence under the impression that prosecutrix was labouring under a grievous wrong.

* Witness No. 8, Bassir Mahomed.
" " 9, Ghogie.
" " 10, Runja Gazee.
" " 11, Bashy.
" " 12, Chunoo Sircar.

Witness No. 13, Mamooddeen, is prisoner's uncle and states that the rape being proved against his nephew, the prisoner's father proposed to compromise for 60 Rs. and deposited that sum with him, but the prosecutrix being unwilling to accept those terms, the money had been returned.

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The prosecutrix having made no mention of this *punchayet* at the thannah, I was at first at a loss to account for the magistrate's Purwannah of the 22nd May, to the darogah on the subject, but on referring to the "*sooruthall*" it appears that one Manoollah deposed to that circumstance, which on further investigation was duly proved to have been held shortly after the occurrence, and in my opinion, sufficiently explains the cause of delay in complaint, which otherwise might have proved fatal to the case.

The reasoning of the law officer I do not clearly understand. The place where the rape occurred is certainly near the road, but this road is said to be little frequented, and the place selected for the assault was a thick, secluded bamboo jungle. The law officer thinks that witnesses Nos. 2 and 3, being of the woman's own caste, would have prevented the prisoner's design being carried into execution, but it is in evidence that these parties did not come up till after the rape had been effected, how then could they have prevented it? and, further, the father's solicitation for the pardon of his son, tends more to fix the crime on the son than to palliate it.

We have on record the circumstance of the prosecutrix proceeding *alone*, of her cries bringing to the spot first Sudderooddeen, and afterwards witnesses Nos. 2 and 3; the three different pleas set up by the prisoner, not one of which is supported by evidence; we have the fact of the *punchayet* proving the committal of the crime, and the prisoner's father attempting to compromise the case; under these circumstances, coupled with other circumstantial evidence, I cannot concur with the law officer in thinking the prisoner entitled to his release, but on the contrary would beg to recommend a sentence of seven years' imprisonment with labor in irons being passed upon him.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The offence is said to have been committed on the 27th April, near the public road. Witness No. 1, went with the prisoner, his master, to cut bamboos, and he on the 18th May, stated before the police that he saw the prisoner in the act and abused him; upon which two witnesses Nos. 2 and 3, came up. These men are of the same caste, Badiah, as the prosecutrix, and deposed on the 18th May, also, to having seen the prisoner in the act. No. 2, subsequently in the sessions contradicted his former deposition and said, he only saw the prisoner running off. These three witnesses, however, before the magistrate and in the sessions court, depose to a circumstance which of itself throws the greatest doubt on the charge. They all state the woman's clothes had been laid down at a short distance off; that she was entirely naked, and upon going away she went for them and dressed herself. Had the act, with which the prisoner is charged, been committed as described by the

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prosecutrix and the witnesses Nos. 1, 2 and 3, there would have been ample time for them on hearing her cries to have prevented the assault and its consequences. With reference to the great delay which took place and the number of days which lapsed between the occurrence and the complaint on the 16th May, before the police, for which the prosecutrix would account on the ground of her husband's absence and the meeting of the *punchayet* (though the meeting was held *after* the complaint was lodged), referring also to the improbability of the story, we are of opinion that there is no proof against the prisoner, and in concurrence with the *futwa* of the law officer acquit the prisoner.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND SHEIKH DOOKHUN

versus

SHEIKH AKOOL (No. 2,) SOMEEROODDEEN (No. 3, APPELLANT,) DOOLOO SHEIKH ALIAS DOWLUT KHAN (No. 4, APPELLANT,) SHEIKH MANIK (No. 5, APPELLANT,) SHEIKH KHOWAS (No. 6,) AND SHEIKH FAEZOODDEEN (No. 7, APPELLANT.)

Mymensingh. 1855. July 28. Case of SOMEEROODDEEN and others.

The prisoners were convicted of highway robbery and sentenced to ten years' imprisonment. Appeal rejected.

CRIME CHARGED.—Highway robbery, and Rs. 227-12 taken in cash.

CRIME ESTABLISHED.—Highway robbery.

Committing Officer.—Mr. W. Cockburn, deputy magistrate of Jamalpore.

Tried before Mr. W. T. Trotter, sessions judge of Mymensingh, on the 7th May, 1855.

Remarks by the sessions judge.—It is in evidence that Kishen and Dhoneeram Shah had sent their servants Dookhia, Sheikh Khoodee, Sheikh Hanoo, and Sheikh Deel Mahomed to their shop at Sherepore, with certain articles of merchandize, and on making them over to the gomashtas there received from them Rs. 227-12, to be paid to their master, with which they were returning homewards, when on the morning of the 5th Cheit last, as they were passing by Shona Sheikh's house (witness No. 13,) in Bhugeengram, one of the prisoners came up and asked them where they had come from, and where they were going, and having answered these questions he and the other prisoners (who accompanied him) desired them to go to the darogah who they said required their attendance, and on their refusing to do so, they, the prisoners, forcibly took them towards

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Dacotea Kooree where they assaulted and robbed them of the cash they had with them, after which they ran off towards the south pursued by the prosecutors who were calling out for assistance; the uproar attracted the attention of the inhabitants of Chakund and Golabaree who came up and surrounded a jungle in Boisunbaree, where the prisoners had taken refuge, and immediately apprehended them. Of the prisoners, two had climbed up a tree with a view to conceal themselves and two were found in a house belonging to Auron Goddah close by the jungle. The prosecutor and villagers then took them to the thannah of Modhoopore where they confessed to having been in company with Kadir and Shonaullah (not apprehended), who they said, offered to pay them a rupee each for their assistance in arresting certain individuals, and that they (Kadir and Shonaullah) had robbed the prosecutors, and that Rs. 40-4, given up by them was part of the plundered property. Before the deputy magistrate they repeated their confessions. In this court, however, they all denied; No. 2 urged that his mofussil confession was extorted by ill-treatment, Nos. 6 and 7, that they did not confess, and the others that their depositions in the mofussil were not recorded as stated by them, and their foujdary confessions were merely written out from their mofussil confessions; but with the exception of prisoners Nos 2 and 6, no one name witnesses for their defence, but their evidence was not sufficient to exculpate these prisoners. From the fact of the prisoners having been immediately apprehended by the prosecutor and witnesses, who pursued them after they had committed the crime, and taking their mofussil and foujdary confessions into consideration, I agree with the jury in convicting them of the crime charged, and sentence them each to be imprisoned for (10) ten years with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoners were seized by the villagers with the plundered money, which they gave up, and confessed before the police and the magistrate. They plead *not guilty* in the sessions court, and two of them Nos. 2 and 6, adduce evidence to character, but it is quite of a negative nature and does not support their defence. The sessions judge's orders are confirmed in appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND BUSTUB DOSS PODDAR

versus

MUDDUN HARRY (No. 1,) MUDHOO KOWRA (No. 2,) KALEE DHOPA (No. 3, APPELLANT,) TARACHAND KOWRA (No. 4, APPELLANT,) NUSSEEROODDEEN MIRDAH (No. 5,) ASMUTOOLLAH (No. 6.) AND PUDDO KOWRANEE (No. 7.)

24-Pergunnahs.

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Case of KALEE DHOPA and others.

Conviction of having in possession, property acquired by dacoity upheld in appeal, the identification of the property by the prosecutor's private trade, marks being very clearly established.

CRIME CHARGED.—1st count, Nos. 2 and 5, dacoity with wounding in the house of the prosecutor, in which property to the value of Rs. 602-10 was plundered; 2nd count, receiving portions of the abovementioned property, knowing at the time that such property had been obtained by the dacoity with wounding; 3rd count, No. 1, being instigator of dacoity committed in his master's house; 4th count, being accessary before the fact of the dacoity, with wounding; 5th count, Nos. 3, 4, 6 and 7, having in their possession property acquired by the dacoity with wounding, knowing it to have been so obtained.

CRIME ESTABLISHED.—Nos. 2 and 5, dacoity with wounding, No. 1, being an accessary before the fact to the above dacoity, and Nos. 3, 4, 6 and 7, having in their possession property acquired by dacoity, knowing it to have been so obtained.

Committing Officer.—Baboo Greesh Chunder Ghose, deputy magistrate of Howrah.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 18th May, 1855.

Remarks by the additional sessions judge.—The prosecutor was sitting at the door of his own house in conversation with witness No. 32, the village chowkeedar, and prisoner No. 1, Muddun Harry, his own house chowkeedar, when a noise was heard among the bamboos on one side of the house. The two chowkeedars, at the prosecutor's desire, went to discover what it was, and having seen nothing had just returned, when a gang of dacoits entered the premises They seized prisoner No. 1, and tied him up. The prosecutor and witness No. 32, making such resistance as they could, were beaten by the dacoits rather severely. At length after plundering the house of all its contents, the greater part of which consisted of new cloth, the dacoits decamped.

Prisoner No. 1, was suspected of having been in league with the dacoits, from his not showing any resistance to them and from his having suffered no injury at their hands. On his ap-

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prehension the next morning, he confessed that he had been previously told of the intention to commit the dacoity. This information led to the apprehension of the other prisoners, and to the recoverery of some portion of the plundered property.

The evidence against the prisoner No. 1, is his mofussil and foujdary confessions, both established on the testimony of the witnesses who attested them. It is also corroborative of his guilt, that he supplied the clue which led to the detection of the guilty parties. His defence at the sessions is, that he made no confessions and that he was tied by the dacoits as soon as they entered the yard of the prosecutor's house. He called two female relatives of the prosecutor to the latter fact. I convict him of being an accessary to dacoity, with wounding before the fact.

The evidence against prisoner No. 2, is his mofussil confession, duly verified, to the dacoity, and the discovery and recovery of some of the plundered articles upon his information. The property recovered, of which he gave the clue, are an entire piece of new long cloth, and other articles of clothing found in the possession of Kala Dhopa, prisoner No. 3, and a pair of silver armlets found with the prisoner's wife No. 8. The long cloth as well as most of the rest of the new pieces found with the other prisoners, bear different distinguishing marks. These marks enable the prosecutor to know at a glance what he can afford to sell each piece of cloth for, without affording the same information to the purchaser. All small cloth-merchants have, I am informed, some peculiar way of their own which answers the above purpose. A cloth having the mark of OOS. stood the prosecutor's fourteen annas. This method of calculation he explained to be this. The two OO'S are two rupees, halve this, take two annas from it, and the remainder fourteen annas is the price which the prosecutor paid for the cloth. Again OO 54 stands for 2-9, halve this, taken two annas from it and the remainder 1-2-6, is what the cloth cost the prosecutor. This is the prosecutor's method of furnishing himself with information as to the value of his cloths, while the mode of calculation and the figures used, being peculiar to himself, he is enabled with the utmost certainty to identify his property *so* long as the marks are not effaced. The prisoner denies his mofussil confession, and claims the bracelets found on the person of his wife. He alleges also that he was at home on the night of the dacoity. The witnesses however named by the prisoner know nothing of this matter, nor do they know that the bracelets belong to the prisoner. I convict the prisoner on his mofussil confession, and the corroboration which the finding of part of the stolen property, from information supplied by the prisoner, gives to that confession of the dacoity.

The prisoner No. 3, Kala Dhopa, confessed both before the

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police and before the magistrate, that he received together with other less significant items, the piece of long cloth above made mention of, from Musst. Puddo, a female relative of prisoner No. 2, knowing that that prisoner had procured it by the commission of dacoity. His defence at the sessions is, that he did receive the cloths from Musst. Puddo to wash, but that he did not know that they were plundered or stolen property. Allowing him to have received the cloth from Musst. Puddo, his plea of ignorance that it was stolen property cannot avail him. He admitted that he was informed of the dishonest manner by which the property had come into the possession of the prisoner No. 2, and inasmuch as people do not send to be washed an entire piece of new cloth consisting of forty yards, the suspicion that this circumstance must have given rise to in the prisoner's mind, renders it probable that he did ask and was informed as to the source from whence the cloth was obtained. I convict him of having in his possession property obtained by dacoity, knowing it to have been so obtained.

The prisoner No. 4, Tarachand, was implicated in the confession of prisoner No. 1. Muddun Harry. He has denied his guilt all along, but a great quantity of new cloth has been found in his house, bearing the unmistakeable marks of the prosecutor. The prisoner in his defence states that he received the cloths from Nos. 1 to 15, from his different relations on the recent occasion of his mother's *shraud.* He says the cloths had the marks and figures they now bear, when they were presented to him, but the prisoner declares himself unable to point out, notwithstanding the cloths are differently marked, what particular pieces he received from each of his different relatives. *He cannot do so in a single instance.* His witnesses, many of them the persons from whom the prisoner received the cloths, state that the cloths bore *no marks of any kind* when they were presented to the prisoner. I convict the prisoner of having in his possession property obtained by dacoity, knowing it to have been so obtained.

Prisoner No. 5, Nusso, or Nusseerooddeen, was apprehended on the implication of prisoner No. 2. He confessed that he was present at the dacoity, both before the police and before the magistrate. He stated that the cloth he got in the dacoity had been given to his brother, Assmut, prisoner No. 6, to deposit in some safe place. In his defence before the sessions the prisoner pleads that the cloths found with Assmut, were purchased by the prisoner some short time before the dacoity. The witnesses named by him, though they profess to be aware of the fact, are unable to say whether the cloth claimed by the prosecutor, was the very cloth purchased by the prisoner. It has the same infallible mark which distinguishes the rest of the prosecutor's property, and that being conclusive as to ownership, and the

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manner in which the prisoner attempted to conceal it, affording a presumption that he obtained the cloth by the commission of dacoity, as he himself twice confessed he did, I hold him guilty of the dacoity.

The prisoner No. 6, Assmut, was caught with the cloth of which prisoner No. 5, avows himself to be the owner. He was taking it, so he stated in his mofussil confession, at the request of prisoner No. 5, to a certain party named by him, that it might be out of the way during the investigation of the dacoity. The prisoner further allowed that he was aware that the prisoner No. 5, got the property by dacoity. In his defence before the sessions the prisoner states, that he received the cloth from prisoner No. 5, to take to the house of his father-in-law, because the house of prisoner No. 5, was in a leaky state and he had no proper place to keep the cloth. The circumstances under which the property was found on the person of the prisoner, leave no doubt on my mind that the prisoner knew it to have been obtained by dacoity; I convict him of having in his possession property obtained by dacoity, knowing it to have been so obtained.

The prisoner No. 7, was implicated in the confession of prisoner No. 2, she gave the long cloth alluded to in another part of these remarks to Kala Dhopa to wash. She admitted in the mofussil that she knew the cloth had been obtained by dacoity. In her answer before the magistrate she admitted that she gave the cloth to Kala Dhopa, having herself received it from prisoner No 2, but she denied that she was informed of the source from whence the cloth had been obtained. In her defence before the sessions she claims the cloth as her own property. Her single witness cannot vouch for this fact, and it has already been shown that the property given to Kala Dhopa, belongs undoubtedly to the prosecutor; I convict the prisoner of having in her possession property obtained by dacoity, knowing it to have been so obtained.

I sentence prisoner No. 1, to fourteen years' imprisonment, with labor in irons.

I sentence prisoners Nos. 2 and 5, to ten years' imprisonment, each with labor in irons.

I sentence prisoners Nos. 3, 4, 6 and 7, to seven years' imprisonment, each with labor in irons.

Remarks by the Nizamut Adawlut.—Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prosecutor has recognised his property by the private marks affixed in it, according to the custom of the trade, and the prisoners, though admitting possession of the cloths so marked, are unable to produce proof of their honest acquisition. We see no reason to interfere, and reject this appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

TRIAL NO. 1. LAUL MAHOMED BISWAS (No. 13,) TUMEEROODDI BISWAS (No. 14,) SUMEEROODDI KHAN (No. 17,*) WARESH LUSHKER (No. 19.)

TRIAL NO. 2.

HAFIZOOLLAH SHEIKH.

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Case of LAUL MAHOMED BISWAS and others.

The prisoners charged with affray attended with culpable homicide were acquitted for want of proof and owing to the suspicious circumstances of the case.

CRIME CHARGED.—*Trial No.* 1. 1st count, Nos. 13, 14, 17 and 19, affray attended with the culpable homicide of Kubeer Sheikh, and wounding of prisoners, Moneeroddi* No. 16, Sumeerooddi Khan No. 17, and Pizeerooddi* No. 18, on the 11th February, 1855, corresponding with 30th Magh, 1261, B. S.; 2nd count, Nos. 13 and 14, charged with riot, resulting in the culpable homicide of Kubeer Sheikh, and wounding of prisoners, Nos. 16, 17 and 18, and carrying away Nos. 21* and 22,* and Megai Lushker, not since heard of, on the 11th February, 1855, corresponding with 30th Magh, 1261, B. S.; 3rd count, Nos. 13 and 14, charged with forming members of an illegal armed and riotous assemblage on the 11th February, 1855, corresponding with 30th Magh, 1261, B. S.

Trial No. 2.—Affray attended with the culpable homicide of Kubeer Sheikh, and wounding of the defendants, Nos. 16, 17 and 18, (in the preceding trial) on the 11th February, 1855, corresponding with 30th Magh, 1261, B. S.

CRIME ESTABLISHED.—*Trials Nos.* 1 *and* 2. The prisoners in both cases are convicted of affray, with homicide and wounding.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W Mallet, officiating sessions judge of Jessore, on the 1st June, 1855.

Remarks by the officiating sessions judge.—Trials Nos. 1 *and* 2. On the 11th February, it is said, an affray took place at a place, called Paka, in which a man, by name Kubeer Sheikh, was mortally wounded, a spear was thrust or thrown with such force, that it went into his head at the right temple, penetrated

Witness Passim.

* Acquitted.

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to a depth of five and half inches and the iron remained so imbedded that it was only extracted by main force by two men, the man lived till the 25th of the month, when suppuration having come on, he died, having first given his deposition with perfect clearness before the magistrate on oath, with the spear sticking in his head, on the 13th; it is clearly shown by the evidence of the medical officer* that this wound was the cause of the man's death.

Witness No. 25, Shumsooddi Chowkeedar.
26, Monirooddi
27 Usseinooddi, &c, &c, &c.

*Witness No. 28, Dr. C. Palmer.

It appears that the village of Paka was held in *talook* by a person named Juggernath Mundul, he made it over to a planter of the name of Devrinne. He or his people tried to raise the rents of the villagers, which they were naturally not disposed to give. The evidence shows that a number of *lattials*, under the orders of prisoners Nos. 13 and 14, were sent to enforce the payment. The villagers, though much fewer in number, attempted, but in vain to oppose them, and in the attempt, the deceased was mortally wounded, as abovementioned, and Nos 16, 17 and 18, slightly so. There is, as usual, a great deal of discrepancy in the evidence between the evidence given in this and the subordinate courts. I tried the case with the assistance of a jury, they found Nos. 13, 14 and 15, guilty of affray, with homicide and wounding, the whole of the other prisoners, Nos. 16, 17, 18, 19, 20, 21 and 22, they acquitted. I am sorry to say that I do not agree with the jury. I have carefully gone through the evidence comparing it with that given before the magistrate, and in accordance therewith, I have sentenced Nos. 13 and 14, to seven years, with labor in irons; considering the great provocation that they had, and that one of them was wounded though certainly only slightly, and that they have already been in confinement some time, I have sentenced Nos. 17, 19 and 1, of May, to three months each with labor, with the power of redeeming the labor by a

Witness No. 2, Kooshai Mundul.
" " 3, Gour Chunder Mundul
" " 4, Luckheenarain Mundul.
" " 1, Hulodhur Mundul.
" " 2, Hooshai Mundul.
" " 3, Gour Chunder Mundul
" " 4, Luckheenarain Mundul.
" " 5, Joodhistee Mundul.
" " 6, Issur Mundul.
" " 7, Sumboo Mundul.
" " 8, Gorachand Mundul.
" " 9, Oodoy Chung Mundul.
" " 10, Buloram Mundul, and
" " 25, Shumsuddi Chowkeedar.

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fine of fifty rupees paid in ten days, the rest I have acquitted. I have but little doubt in my own mind that they were in the affray, but as regards No. 15, though five witnesses spoke against him before the magistrate, here only two,* that were worthy of credit, mentioned his name, and against the others, though they were said to have been seen at the place of the affray, and two were wounded, and two taken off by the attacking party, it is not shown that they were at all active participators. I therefore have also given them the benefit of the doubt, and directed their release.

* Witness No. 2.
" " 3.

No. 13, gave as his defence that he was legally employed; No. 14, tried to prove an *alibi*; Nos. 17, and 1, of May, denied having made any resistance; No. 19, tried to prove an *alibi*.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) It was not till seven days after the police arrived, that any proof was adduced against the prisoners, when on the 17th February, the witnesses in the calendar were at once brought forward and named them. The evidence for the prosecution, as given by some of the witnesses, states that two Hindus, Brahmins, who are named, came to the scene of the disturbance mounted on horseback, and gave the order for the assault; others of the eye-witnesses have sworn that the two Mussulman prisoners, Nos. 13 and 14, gave the orders not however mounted on horseback. Three witnesses, examined in the foujdary, are said to have seen ten persons wounded and carried off, and are entered in the calendar as evidence to that fact; they, however, in their depositions, only speak of having seen them taken away, not wounded. There can be no doubt of the death of Kubeer and of the wounding of others, but no reliance can be placed on such evidence as that brought forward in the calendar; the witnesses are ryots of Kishen Chunder Ghose, talookdar of the village Mondoorea with whom some of the witnesses state the proprietor of the indigo-factory, at Panee Ghaut, is at enmity; the prisoners, Nos. 13 and 14, are servants of that factory, and there is great reason to suppose that the case for the prosecution has been got up against the accused. They are acquitted for want of proof.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

Tirhoot.

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The prisoners who were charged with conspiracy and perjury were acquitted, as the magistrate ought not to have put them on their oath when he had satisfied himself, previous to their examination, that the charge to which they would depose was a false one.

GOVERNMENT AND SOOKHLALL

versus

RUNPAUL RAI (No. 10,) DEHBEE RAI (No. 11,) DHUJJOO RAI (No. 12,) TILUKDHARY RAI (No. 13,) HUNSRAJ RAI (No. 14,) MOHABUL RAI (No. 15,) AND BUNSEE RAWOOTH (No. 16.)

CRIME CHARGED.—1st count, conspiracy for the purpose of proving a false and malicious charge of murder against Sookhlall Rai and for that purpose fabricating wounds on a dead body in order to induce the belief that the deceased had died from violence; 2nd count, being accessaries after the fact to the conspiracy and fabrication of the wound; 3rd count, privity to the above counts; 4th count, wilful and deliberate perjury in having stated on a solemn declaration taken in lieu of an oath that the deceased Chellur Rai died from the effects of wounds inflicted by a sword, secondly that the said Chellur Rai did not die from illness and was not ill before his death, both these statements were utterly false and deliberately and maliciously made on a point material to the issue of the case with the view to convict an innocent person of a crime which had never been committed.

CRIME ESTABLISHED.—1st count, conspiracy for the purpose of proving a false and malicious charge of murder against Sookhlall Rai and for that purpose fabricating wounds on a dead body in order to induce the belief that the deceased had died from violence, and 4th count, with wilful and deliberate perjury, &c. &c.

Committing Officer.--Mr. A. E. Russell, magistrate of Tirhoot.

Tried before the Hon. Robert Forbes, sessions judge of Tirhoot, on the 21st April, 1855.

Remarks by the sessions judge.—On the 10th March, the prisoner Runpaul Rai, No. 10, nephew of the deceased Chellur Rai, the latter being an old and infirm man, gave an information at the thannah of Mowah to the effect that the prosecutor Sookhlall Rai and several others, servants of Abdool Allee, the malik of mouzah Bishunpore Ghunno came accompanied by a Koorkee Peon and a peon from the moonsiff of Mowah with 500 rioters, and carried off near 100 maunds of *mukye* stored in a *bukaree* or granary, the peons having been deputed to attach the property of Tilukdhary Singh, Ramperkash Singh his (Runpaul Rai's deponent), and that of Chellur Rai and

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Gopal Rai, and that on the deceased Chellur Rai proceeding to resist and prevent them, Jhuman Rai gave the order to strike Chellur Rai, upon which Sookhlall Rai (prosecutor) struck the deceased Chellur Rai a blow with a sword on the neck and cut off his head. The deponent cited two persons as his witnesses the prisoners Hunsraj and Bunseo Rawooth, Nos. 14 and 16, adding that Daby Rai the son of the deceased was then (or at the time of his deposing) sitting by the body to watch it. Upon this, the darogah having proceeded to the spot, made the usual enquiry and sending in the body, reported to the magistrate his opinion that the witnesses were perjured, and the medical officer having examined the body sent in his report to the effect, that in his opinion the wound on the body had been fabricated after death, the deceased having died from illness or natural causes. On this the magistrate ordered the darogah to send in the complainant. Runpaul Rai prisoner No. 10, with every body else who had deposed in support of his statement, in compliance with which order the darogah sent in the prisoner Runpaul Rai No. 16, the nephew Daby Rai No. 11, the son of the deceased, with the other five prisoners as witnesses, and on their depositions being taken they all deposed that Sookhlall Rai the prosecutor having struck the deceased Chellur Rai with a sword had cut off his head, the party of the former as they alleged having also committed other acts of oppression. Upon this, the magistrate holding them all to bail, ordered their defences to be taken, and directed the darogah to send in any witnesses who could speak to the fact of the deceased having been ill and died a natural death, and fourteen persons having deposed before the thannah mohurrir that they had heard of the deceased being ill, twenty-two spoke to their personal knowledge of such being the case and the magistrate thereupon directed the mohurrir to send in four of the latter class, who accordingly sent in the witnesses Nos. 4, 5, 6 and 7, and with them the witness No. 1, Luchmun Chowkeedar, who had deposed before him as an eye-witness, and witness No. 3, Bulloo Gorait.

The prosecutor Soókhlall Rai having been absent at the time, knew nothing of the occurrence, until upon his return he was informed of it by the villagers; and the only eye-witness* in the case deposed that the deceased having been ill for two years had eventually died from that cause, that he, (witness) was present when the prisoner Tilukdharee Rai (not apprehended) ordered Gopal Rai to cut Chillur Rai's throat after he was dead, which Gopal Rai accordingly did, this occurrence having taken place near a Kullian, and the object being to screen themselves from the charge of having resisted the attachment, with the further apparent purpose in doing so of implicating their adversaries.

* No. 1, Luchmun Chowkeedar.

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This witness further deposed that he was proceeding to give information at the thannah, but the prisoner Tilukdharee Rai, No. 13, prevented him. He also stated that there were present at the time "Kureem Buksh, Mehr Allee, Torab Allee and Ram Suhye Chumar," who (not inserted in the calendar) were sent for by this court and they deposed to hearing the witness Luchmun Chowkeedar, No. 1, calling out "Dohaee" and that Rampal, Teelukdharee and Gopal Rai had cut the throat of the deceased man, that Gopal Rai was standing by with a sword in his hand and near him four or five other persons, among whom some of the witnesses deposed to recognising Gopal, Runpaul and Tilukdharee, and some only the last mentioned prisoner.

The other four witnesses* deposed that having been long acquainted with the deceased Chillur Rai, they knew that he had been unwell for one and half or two years, and that illness was the cause of his death, they also having heard that the prisoner had cut the deceased's throat after he was dead.

* No. 4, Bhoojunggee Hojjam.
,, 5. Gundour Thakoor.
,, 6, Ubheelak Singh.
,, 7, Runglall Rai.

Another witness† deposed that for two years he had daily seen the deceased who was unwell, and that he (witness No. 10,) had been informed by witness No 1, that Runpal Rai and others had cut Chullur Rai's throat after his death, which was in reality caused by illness in order to screen themselves from the charge of resistance of process.

† No. 3, Bulloo Gorait.

One witness‡ deposed to the prisoners having riotously opposed him in attaching the property, and to his having afterwards heard that they had wounded the body of a dead man.

‡ No. 8, Gholam Hosain, Coorky Peadah.

Dr. Simpson, the civil assistant surgeon, who had examined the body, deposed to its exhibiting the following appearances. "The body was that of an old man much emaciated, the head was almost separated from the trunk between the 3rd and 4th vertebræ of the neck, the cut through the integuments in front was a clean unjagged cut, as if made at one incision with a sharp-cutting weapon. There was also a deep cut at the back of the neck near the trunk, wounding the spine. Along the top of the left shoulder there was a deep cut wounding the shoulder-joint, collar-bone, and shoulder blade. There was also a deep cut in front of the right shoulder-joint wounding the arm-bone, collar-bone, and shoulder-blade. There were also two slight cuts on the back. There was no material effusion of blood nor extravasation of blood into the surrounding parts, or retraction of the muscles, shewing that all the above injuries had been inflicted after death. Of this there cannot be a possibility of a doubt.

"The right lung was completely disorganised by disease, being

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in a state of suppuration from long standing tubercular disease. The left lung was also affected, but to a less extent. This was the cause of death. The body was undecomposed and in a fit state for medical examination so as to leave no doubt as to the above points."

All the prisoners all along pleaded *not guilty* and all defended themselves by urging that Sookhlall Rai had killed the deceased, and that they had been unjustly implicated. But as only two of them, the prisoners, Tilukdharee Rai and Mohabul Rai called witnesses, whose evidence however in no degree exculpated them, and the charges in my judgment fully proved against the prisoners, I have found them guilty in approval of the law officer's convicting *futwa*, and sentenced them to the punishment as follows.

Sentence passed by the lower court.—Each to be imprisoned with labor and irons for the period of five years.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart. and Mr. H. T. Raikes.) The prisoners No. 10, 11, 12, 13, 14, 15 and 16, are charged in the calendar (amongst other counts not proved) with conspiracy and perjury and convicted of these two last.

Prisoners Nos. 10 and 11, in the mofussil had brought a charge of murder of Chellur Rai against one Sookhlall Rai and others, the corpse was sent in to the sudder station for inspection and report, and the medical officer stated that Chellur Rai, had died a natural death of disease of the lungs, not, as charged in the mofussil, by the hands of Sookhlall Rai and others, alleged to have cut off the deceased's head.

Upon receipt of the Doctor's report, the magistrate on the 5th March, being clearly of opinion that wounds had been inflicted on a dead body, as stated by the medical officer, ordered the darogah to send in the prisoners, the then plaintiff and his witnesses against Sookhlall. Accordingly they appeared before the magistrate on the 10th idem; were put on their oaths and deposed to the same effect as they had stated before the police. The magistrate took evidence as to the previous illness of Chellur Rai and to his death, subsequently, of disease, and upon the strength of the Doctor's medical opinion and the depositions of the witnesses, committed the prisoners as already stated.

Having fully considered the circumstances of this case, we do not concur with the sessions judge in conviction of the prisoners. When the magistrate was satisfied from the medical officer's report that *murder* had not been committed, he should not have put the complainant and his witnesses on oath; by doing so, he has led the prisoners unwarily to implicate themselves, and any thing which they said after having been so sworn cannot be allowed to operate against them detrimentally. The conviction then on the perjury count will not stand.

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Case of RUNPAUL and others.

The prisoners are also however convicted of conspiracy which consists in their having falsely supported the charge of murder, before the magistrate. As we do not hold that their depositions, upon which perjury is found, can be legally brought to bear against them, for the reasons above stated, they must be acquitted on this charge also.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

Moorshedabad.

1855.

GOVERNMENT AND RAMTUNOO MOOCHEE *versus* KHOOSEE SHEIKH (No. 5,) AND JHABOO SHEIKH (No. 7.)

July 31.

Case of KHOOSEE SHEIKH and another.

Conviction and sentence passed by the sessions judge on a charge of dacoity, upheld in appeal.

CRIME CHARGED.—1st count, dacoity in the house of the prosecutor, Ramtunoo Moochee, from which property to the value of Rs. 35-4, was plundered; 2nd count, receiving and possessing a portion of the plundered property, knowing the same to have been acquired by the said dacoity.

CRIME ESTABLISHED.—Dacoity.

Committing Officer.—Mr. O. Toogood, officiating magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 8th May, 1855.

Remarks by the sessions judge.—The evidence in this case is sufficient for the conviction on the charge of dacoity of Khoosee Sheikh, prisoner No. 5, and Jhaboo Sheikh, prisoner No. 7. The former confessed before the police darogah and the magistrate. The latter before the police darogah only. The latter No. 7, was apprehended in another village in the act of flight shortly after the commission of the dacoity, witnesses Nos. 3, 4 and 5, effected the apprehension. Prisoner No. 5, mentions his name in both of his confessions. He also gave up a *chudder* belonging to the prosecutor. Prisoner No. 7, mentions the name of prisoner No. 5, in his mofussil confession. There are no grounds for suspecting that the confessions were not voluntary. Prisoner No. 7, upon his apprehension, admitted that he had been committing a dacoity. It was not known in the village where he was apprehended, till some time after his apprehension, that a dacoity had been committed in the prosecutor's house. He states in his defence before the sessions court, that he had been to relieve a call of nature, when he was without cause arrested, and that the evidence of one of the witnesses to his apprehension No. 3, was not to be trusted, as he had been con-

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victed and punished for perjury by the Beerbhoom criminal courts. On a reference to the sessions judge of Beerbhoom, this statement was found to be false. He was punished on one occasion for disobedience of orders. Under these circumstances, considering the evidence sufficient for the conviction of both the prisoners, Nos. 5 and 7, I sentence them to eight years' imprisonment with hard labor in irons in banishment.

The property of the prisoners Nos. 5 and 7, will be sold under Regulation XVI. of 1850, as compensation to the prosecutor.

The zemindar appears to have given no information of the dacoity to the police, and the jemadar of the *pharee*, only one and half *coss* from the prosecutor's house, was guilty of gross dereliction of duty. He received information of the occurrence early the following morning. He did not forward the information to the thannah till the afternoon and then went himself to make enquiries, and his excuse for this culpable neglect was, that it was reported only to be a theft at first, and it was not until the afternoon that he learnt from travellers that a dacoity had been committed.

Property No. 2, a *chudder*, to be given to the prosecutor, property, No 1, to the prisoner No. 6, who is acquitted.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart. and Mr. H. T. Raikes.) The prisoners in appeal produce no argument or proof which would justify interference with the session judge's sentence.

Prisoner, No. 5, confessed in the mofussil and before the magistrate, and prisoner No. 7, was seized on the spot when endeavouring to escape; he too, confessed in the mofussil and tried to establish an *alibi*, but his witnesses say nothing in his favor. Petition rejected.

SUMMARY CASES.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

KOUR NARAIN PAUL

versus

GOOROO GOBIND.

Midnapore.

1855.

July 4.

Case of KOUR NARAIN PAUL.

It is competent to a magistrate, if not satisfied that a *razeenamah* has been given voluntarily, to direct the inquiry into the original charge to proceed.

This case was referred to the Nizamut Adawlut under Section 5, Act XXXI. of 1841, and Circular Order, dated 18th March, 1842, by Mr. W. Luke, sessions judgs of Midnapore, on the 15th June, 1855, with the following report.

It appears that on the 18th December, Gooroo Gobind Dey charged one Kour Narain Paul, before the magistrate, with committing an assault upon him. On the 27th February following, he filed a *razeenama*, withdrawing the charge against the accused. On the 12th March, Gooroo Gobind, on a summons of the magistrate, appeared and then stated that he had filed the *razeenama*, but had been persuaded to do so by the threats and promises of other parties. The magistrate, crediting this statement, directed that the inquiry into the original charge of assault should proceed and ultimately convicted and sentenced Kour Narain Paul to pay a fine of fifty rupees and in default to fifteen days' imprisonment.

I am of opinion that the magistrate's investigation and final order, subsequent to the filing of the *razeenama*, was illegal.

The prosecutor, Gooroo Gobind Dey, deliberately and of his own free will, withdrew his charge on 27th February, and did not repudiate his act till sixteen days afterwards and the reasons he then assigned for doing so, even if valid, of which no inquiry was made, were not, in my opinion, (in a simple misdemeanour like the present) open to the investigation of the magistrate, and I accordingly recommend that the sentence be reversed and the fine remitted.

Resolution by the Nizamut Adawlut, (Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) No. 581, dated 4th July, 1855.

The Court, having perused the papers above recorded, connected with the case of Kour Narain Paul, observe that it was quite within the competence of the magistrate, if he was not satisfied by the proceedings held by him that the *razeenama* was voluntarily given by the prosecutor, to pass the orders, which he has issued.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

Rungpore.

1855.

July 11.

Case of HAOOREEA and another.

A difference of opinion between the judge and magistrate, merely as to the sufficiency and character of the evidence on which a prisoner has been convicted, does not form a ground of reference under Sec. 5, Act XXXI. 1841.

KANGOORA TELEE

versus

GUDAY NUSHA HAOOREEA AND AJOOLLA.

This case was referred to the Nizamut Adawlut under Section 5, Act XXXI. of 1841, and Circular Order, dated 18th March, 1842, by Mr. G. U. Yule, sessions judge of Rungpore, on the 13th June, 1855, with the following report.

The magistrate sentenced appellant* to one year's imprisonment in a case of theft, on the 31st January, 1855. The only grounds of the conviction are, 1st, the prisoner's confession in the mofussil, which the magistrate considers from the attesting evidence to have been voluntarily given, and secondly, the circumstance of another prisoner, Guday, caught in the night of the theft, having implicated appellant at the time of capture and again in his mofussil and foujdary confessions. That prisoner was apprehended on the night of the 23rd, and his confession was not taken by the police till the 27th. Such grounds alone are insufficient for conviction, and I release the appellant. I observe that another prisoner in the same case named Haooreea has been sentenced by the magistrate to the same punishment as appellant, on the same proof with the difference that Haooreea was apprehended by the village chowkeedar on the night of the 23rd, soon after he was named by the prisoner caught with the property. He also confessed in the mofussil on the 28th and is named in Guday's confessions, but there is no other evidence against him, I am of opinion that he is entitled to release, but as he has not appealed, I cannot interfere according to Section 5, Act XXXI. of 1841.

The magistrate's reply is as follows:

From the assistant magistrate of Rungpore, to the sessions judge of that district, No. 171, dated the 9th June, 1855.

In reply to your letter No. 17, dated the 5th instant, with reference to the case of Haooreea, a person punished by me for theft, I have the honor to inform you that on reconsidering the case, the evidence against the prisoner, consisting as it did merely of his mofussil confession and the implication of another prisoner, appears to be insufficient for conviction. The delay between the apprehension of the defendant and the taking of his confession noticed by you was caused by the jemadar sent to

* Ajoolla.

investigate the case not taking the confessions or any evidence on the spot, but sending in all the parties to the thannah and this neglect, I regret to say, I did not observe when the case first came before me.

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July 11.

Case of HAOOREEA and another.

Resolution of the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) No. 607, dated 11th July, 1855.

The Court, having perused the papers connected with the case of Haooreea, observe that the prisoner has not himself appealed, and the sessions judge's reference does not disclose any irregularity in the assistant magistrate's proceedings, or illegality in the order passed by him, but merely a difference of opinion between the magistrate and himself, as to the sufficiency and character of the evidence on which the prisoner has been convicted. The Court, not considering this a legitimate ground of reference, under the law quoted, decline interfering with the case.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

BEER NARAIN BOSE APPELLANT.

Hooghly.

1855.

July 11.

Case of BEER NARAIN BOSE.

The deputy magistrate fined the prisoner 50 Rs. for coming to his house instead of to the cutcherry to prefer a complaint. Order reversed.

This case was referred to the Nizamut Adawlut under Section 5, Act XXXI. of 1841, by Mr. G. G. Mackintosh, sessions judge of Hooghly, on the 16th June, 1855, with the following report.

I have the honor to submit, for consideration and orders of the court, the proceeding of the deputy magistrate of Serampore, in a case which is not appealable under Act XXXI. of 1841, but which appears to me to have been illegally disposed of.

The appellant was sentenced to pay a fine of Rs. 50, or in default to imprisonment for fifteen days, for going to the deputy magistrate's house to seek redress in a matter between himself and the assistant surgeon of the district. He does not appear to have been guilty of insolence, or impertinence of any description, his offence consisting merely in going to the deputy magistrate's house instead of his cutcherry, and as this is a species of offence which is not provided for in any Regulation, and which does not appear to call for any punishment, I consider the order illegal, and I beg to recommend that the fine should be remitted and that Mr. Stephen should be warned against any recurrence of such undue severity.

Resolution by the Nizamut Adawlut.—(Present: Sir R. Bar-

1855. low, Bart., and Mr. H. T. Raikes.) No. 608, dated 11th January, 1855.

July 11.

Case of BEER NARAIN BOSE.

The Court, having perused the papers connected with the case of Beer Narain Bose, observe that the order of the deputy magistrate is manifestly illegal and must be reversed. The Court, therefore, direct that if the fine has been levied, it be returned to Beer Narain Bose, the appellant.

The deputy magistrate will be careful, in future, not to act without due authority of law to justify his orders.

The Court remark that, in forwarding this reference, the sessions judge has omitted to comply with the Circular Order No. 106 of the 18th of March, 1842.

PRESENT:

SIR R. BARLOW, BART., *Judge.*

Sylhet.

1855.

July 19.

Case of BANIE MEAH CHOWKEEDAR and others.

The magistrate having punished a large number of chowkeedars for neglect of duty, it appeared on inquiry, that they had been punished without any proper judicial investigation, and the orders were accordingly reversed.

The following correspondence was passed with the sessions judge of Sylhet, on review of the criminal statements for the 1st quarter of 1855.

Resolution of the Nizamut Adawlut.—No. 356, *dated 27th April*, 1855.

The Court, having had before them the criminal statements, Nos. 1 to 6 and 9, of Sylhet, for the 1st quarter of the current year, direct that the magistrate be requested to state the circumstances which led to so large a number of convictions under heading, "neglect of duty in chowkeedars," in part No. 1, statement No. 2, and to report whether they were all punished after due judicial enquiry.

From the sessions judge of Sylhet to the register of the Nizamut Adawlut, No. 27, *dated the 9th May*, 1855.

I have the honor to submit the explanation required from the magistrate of Sylhet, by the Court's resolution No. 356, dated 27th April, 1855.

From the magistrate of Sylhet, to the sessions judge of that district No. 182, *dated 8th May*, 1855.

In reply to your letter No. 13, of this day's date, calling for certain explanation, contained in the Resolution of the Nizamut Adawlut, dated the 27th of April, 1855, I have the honor to state in reply that in all cases, the chowkeedars, when reported by the police for neglect of duty, are called upon for their reply, and the witnesses for their defence, if they have any, after which they are punished or otherwise as the circumstances of the case may be.

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July 19.

Case of BANIE MEAH CHOWKEEDAR and others.

From the sessions judge of Sylhet to the Registrar of the Nizamut Adawlut No. 31, *dated* 18*th May*, 1855.

With reference to the Court's resolution No. 356, dated 27th April, and the magistrate's reply, dated 8th May, a copy of which was forwarded to the Court with my letter No. 27, dated the 9th instant, I have the honor to report that noticing in the monthly statement for April last, two cases in which several chowkeedars had been fined, I sent for them for my inspection.

In one, the darogah of Noacolly reported that nine chowkeedars, in the other the darogah of Parcool, that fifteen chowkeedars had neglected to attend at the thannah to make the prescribed reports, and the magistrate therefore directed the darogahs to take their answers to the charge of neglect of duty, and submit them to him. This was done, and the chowkeedars made various excuses and named witnesses in their defence, which, with the exception of one instance, were not examined at all. The darogahs reported each, that with one exception, they considered the excuses insufficient, and the magistrate, without summoning the chowkeedars, imposed upon them fines varying from two to four annas each, and directed the darogahs to realize them and transmit them to him. As this course of proceeding, on the part of the magistrate, is highly irregular and calculated to mislead his superiors as to the number of prisoners convicted after trial, I consider it my duty to bring the subject to the notice of the Court, with a view to its correction.

From the register of the Nizamut Adawlut to the sessions judge of Sylhet No. 455, *dated* 29*th May*, 1855.

With reference to your letter No. 31, dated the 18th instant, I am directed to observe that it is the object of the Court, in calling for explanations, to check irregular proceedings on the part of their subordinates.

The Court request that you will at once submit the papers of the cases refered to in your 2nd paragraph, so as to enable them to reverse the illegal proceedings of the magistrate.

From the sessions judge of Sylhet, to the register of the Nizamut Adawutl No. 37, *dated the* 20*th June*, 1855.

With reference to the Court's letter No. 454, dated the 29th ultimo, I have the honor to submit the cases noted in the margin, for the orders of the Court, under Section 5, Act XXXI. of 1841.

Government *versus* Banie Meah and eight others chowkeedars.

Government *versus* Jamal and fourteen others chowkeedars.

The magistrate has in all the cases fined the chowkeedars, without taking their answer to the charge or summoning the witnesses named by them for their defence, and his order is therefore illegal.

1855.

July 19.

Case of BANIE MEAH CHOWKEEDAR and others.

I at the same time submit two other cases of a similar nature in which burkundazes have been fined upon the mere report of the darogah, and which I called for from the magistrate's office for perusal after examination of his monthly statements for May last.

Government *versus* Aymutoollah Burkundaz.

Government *versus* Kunnie Singh Burkundaz.

The orders passed are in each instance irregular.

Resolution of the Nizamut Adawlut.--No. 622, dated 19th July, 1855.

Read a letter No. 31, dated the 18th May last, from the sessions judge of Sylhet, reporting that several chowkeedars had been fined upon reports of neglect made against them by the darogahs. The magistrate had been called upon for explanation by the Court's resolution No. 356, dated the 27th April last, as to the circumstances which led to the conviction of so large a number of chowkeedars on charge of "neglect of duty."

The magistrate, in his reply, states that in all cases, the chowkeedars when reported by the police for neglect of duty, are called upon for their reply and the witnesses for their defence, after which they are punished.

The sessions judge, in reference to the above answer, submitted with his letter No. 37, the records of the cases herein referred to. From these, it appears that on the 6th March, the darogah reported the names of fifteen chowkeedars for neglect in not having given in their usual monthly reports, an order was passed thereon that the chowkeedars' answers should be taken by the darogah and sent into the magistrate. Accordingly, on the 13th April, their answers were sent up and they were fined by the magistrate in various sums from two to four annas.

No evidence was taken, or even called for, so far as these records show, but had it been otherwise, answers so taken are altogether insufficient. The magistrate in his answers above quoted, is not explicit. He states, "when chowkeedars are reported by the police for neglect, they are called upon for their reply and their witnesses are taken." Obviously there is a very material omission at this point; the question by whom? would naturally be asked, and the answer should be clear and specific. The records now submitted, furnish the answers and the Court find that no witnesses for the defence were examined. The answers were taken by the darogah and the punishment was awarded by the magistrate on view of the darogah's report. In fact, the above fifteen chowkeedars, as well as eight out of the nine reported by the darogah on the 18th April, have been punished without the authority of law.

The Court cannot but observe that the magistrate's explana-

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tion is uncertain and the result of the enquiry most unsatisfactory. They trust that they may not have occasion again to revert to the subject. The Court direct that the fines of all the chowkeedars, if realized, be refunded to them, and that the sessions judge be requested to report accordingly.

PRESENT:

A. DICK, AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT
versus
NOBIN GHOSE GWALA.

Hooghly.

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August 1.

Case of NOBIN GHOSE GWALA.

Prisoner convicted on the evidence of approvers, corroborated by circumstances independent of their testimony.

CRIME CHARGED.—Having belonged to a gang of dacoits, and committed the following dacoities, viz., on the night of the 21st April, 1844, in the house of Hullodhur Mundul, at Hatgatchia, thannah Umbeeka, zillah Burdwan; on the night of the 8th November, 1844, in the house of Kashinath Shurnokar, at Deyparah, thannah Pandooah, zillah Hooghly; on the night of the 5th February, 1855, in the house of Ramdhone Mudduck, at Gopeenathpore, thannah Poohthal, zillah Burdwan; on the night of the 22nd June, 1849, in the house of Kedarnath Poddar, at Kishtodebpore, thannah Umbeeka, zillah Burdwan; on the night of the 16th November, 1849, in the house of Fokeerchand Shah, at Shaulkoorah, thannah Benipore, zillah Hooghly; on the night of the 28th January, 1850, in the house of Rammohun Kurmokar, at Moraghattah, thannah Benipore, zillah Hooghly, and, on the night of the 12th March, 1850, in the house of Shiboo Dutt Kashari, at Culna, thannah Umbeeka, zillah Burdwan.

Committing Officer.—Baboo Chunder Sekor Roy, deputy magistrate, under the commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 28th June, 1855.

Remarks by the additional sessions judge.—Though not called so, this is, in fact, a supplementary trial to that disposed of by me the day before yesterday, viz., the trial of Satcouree Ghose and others. The prisoner is charged with having belonged to a gang of dacoits and to have committed seven of the eighteen dacoities upon which Satcouree and others with him were arraigned. The seven dacoities are the Hatgatchia, the Kishtodebpore, the Deyparah, the Gram Culna, the Shaulkoorah, the Moraghattah and the Gopeenathpore dacoities, as more fully particularized in the crime charged.

The evidence against the prisoner is the testimony of two of the six approvers who were examined on the previous trial and I herewith submit in English their entire depositions* given before me in the prisoner's particular case.

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* The evidence of Madhub Dass, approver witness No. 1.

Being interrogated says: I have known the prisoner for eight or nine

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The witnesses agree in the first three of the above specified seven dacoities, in both stating that the prisoner was present in them. The witness No. 1, Madhub Doss Kyburt however omitted the prisoner's name in the 3rd dacoity when deposing

years, he has committed dacoities with me, about five or six, he committed with me the Hatgatchia dacoity, the Kishtodebpore dacoity, the Gram Kulna dacoity, the Shaulkaorah dacoity, the Moraghattah dacoity and the Deyparah dacoity. The earliest of these dacoities is the Hatgatchia dacoity, it occurred nine or ten years ago: I did not know the prisoner long before this dacoity. I became acquainted with the prisoner in this way, whenever a dacoity was to be committed in that direction, I used to lodge with Sumboo Baddooree of Umbeeka. The prisoner was a servant of Teenu Baboo of that place, and there my acquaintance with the prisoner began. When he joined us in the Hatgatchia dacoity, he was not a practised hand, he might have committed one or two dacoities. Satcouree introduced him to our gang; Hatgatchia is from Umbeeka about one and half *coss* The sirdars of the Hatgatchia dacoity were Golab Roy and Panchcowree Dass. The informer was the latter; I was told of the dacoity by Pranna Kyburt at and Soonder sirdar. They told me at my own house. I live in Baleg ha, it is from Umbeeka four *coss*, the same side of the river as Umbeeka. The dacoits assembled on the Saepara east *mat* at nine or ten at night. After I left home to join the dacoits, I went first to Sumboo Baddooree's *baree*. I saw the prisoner among the assembled gang on the Saepara *mat*. I arrived at Sumboo Baddooree's house at twelve or so in the day. I saw the prisoner during the day at Sumboo Baddooree's, he was there with others previous to our assembly in the *mat*. We went from Sumboo Baddooree's house, two or three at a time. If any one enquired who we were, Sumboo Baddooree who was the chowkeedaree Buxshee, said we were chowkeedars. We did get money and other property in the Hatgatchia dacoity, we got about 400 Rupees worth. The only remarkable thing which happened in this dacoity was that we found a child in the house, whom Nobeen Ghose, the approver, took in his arms, the child told us that the money was in *that* house. I am very sure the prisoner went with us on the Hatgatchia dacoity.

The prisoner is asked if he has any thing to ask the prisoner; answer, no.

You stated you were in the Kishtodebpore dacoity with the prisoner, who was the sirdar? Satcowree Ghose, Dahee Ghose and Pesu Dalea. The spies were Subbasur Bhatachargee and Satcowree. I was told of this dacoity by Subbasur's mother's brother, he told me this at my residence at Kaleedunga. I had been apprehended while I was living in Balegacha and sentenced to ten years' imprisonment Afterwards that sentence was reversed, and after being in jail for a year on security, I was discharged. The Balegacha zemindar was not a good man and I could never go out on any thieving expedition without being had up for it, so I ran away from his *illaka*. I went first to Morazurree, and then to Kalleedunga. The place of assembly in the Kishtodebpore dacoity was the Ruttullah, and we went on the day of the *rut*. The *rut* was in Umbeeka. When I left home I went at once to the place appointed; I arrived at 12 o'clock in the day. We looked at the *rut* during the day, at night we all adjourned to an Indigo-field on a *chur* to the north of Umbeeka, we went there twos and threes at a time from different directions. We started from there at nine or ten at night. The prisoner was in the place of assembly. The *Kalee poojah* in this case was performed in a cut rice field south of Kishtodepbore, about twenty or twenty-five *beghas* from the house we intended to attack. The prisoner was in this dacoity. We got in this affair 3 or 400 Rupees worth and more. The people of the house threw bricks down upon us, this was the only thing remarkable that

to that occurrence before the dacoity commissioner. In three other cases, the Gram Culna, the Shaulkoorah, the Moraghattah cases, witness No. 1, and in the Gopeenathpore case, witness No. 2, Nobin Ghose, give evidence against him.

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I know of, and Nobeen Ghose took up a *jhamp* and we got under it and so saved our heads while we cut through the door. This dacoity happened about four or five years ago, and long time after the Hatgatchia dacoity, I committed dacoities between the Hatgatchia and the Kishtodebpore dacoities, but the prisoner was not with me. Of course I saw the prisoner between the two dacoities, I do recollect that during the interval, the Deyparah dacoity took place and the prisoner accompanied me in it. I can't bring to memory that the prisoner committed with me any other, but the Deyparah dacoity between the Hatgatchia and the Kishtodebpore dacoities.

The sirdars in the Deyparah dacoity were Golab Roy and Panchcowree Dass and Shoba Chung. They were also the spies; I was told of it by Soonder Sirdar at my own residence at Balegacha. This Deyparah dacoity happened a few months after the Hatgatcha dacoity, within a year certainly. I was told by Soonder Sirdar at my house, one or two days before the dacoity. The dacoits assembled at night on the Soepara west *mat*. The prisoner was among the dacoits who assembled there, he went on the dacoity also, we got in plunder about two hundred Rupees, but I got nothing but a *bayoo*, I was not able to plunder with any spirit, as I got wounded by an arrow in my leg. Besides this incident another remarkable thing attending the dacoity was, that the villagers were inclined to have a fight with us Soonder Sirdar went with me from Balegacha when I went on this dacoity. He and I went to Panchcowree's house in Hatgatchia, he had agreed to assemble men there for this dacoity. We arrived at Panchcowree's house at 12 o'clock P. M., the same day as that of the dacoity. We made *Kalee Poojah* on the north bank of Deyparah Digghee.

I was not in the Gopeenathpore dacoity. The Sirdars in the Gram Kulna dacoity were Satcowree, Beesa Dolea, and Teloke Sirdar. The spy was Satcowree, I was told of this dacoity by Pramna Bagdee and Subbassur's mother's brother, I was then living in Kulleedanga. I was told to go to Subbassur's *Boetuckhana*, I got there as night began. I went alone. The dacoits were to collect in that place in part, and part on the *chur*, we joined the latter afterwards, the *chur* is north of Subbassur's house. The *chur* is from Gram Kulna not more that half or three quarter *coss*. We started from the *chur* at ten or eleven at night. *Kalee poojah* was made on a *chur*, east of Gram Kulna, and near to the village. The *Kalee poojah*, I can't say who performed it. The prisoner was in this dacoity, Satcowree's house was then in Kulna, or Umbeeka, as it is also called, all the other prisoners tried yesterday with Satcowree, lived in Kulna also. We got in this dacoity a Gurrah of ornaments, which had been built into the wall, we got also a bag of rupees in a chest, which was carried away by Muddoo Pona Gwallah. The prisoner was in this dacoity. While I was at Subbassur's house, I saw the prisoner, his *ghur* was close by and visible from Subbassur's *Boetuckhana*. The prisoner was still then in Teenu Baboo's service, his business was, the collection of rents, to attend the cattle, to go with messages, and at night to watch the house. Teenu Baboo knew of his servant being given to dacoity. He told me as much, and he paid money and got the prisoner out of a dacoity, of which he was accused at Burdwan. We were attacked by the villagers and had to fight to make our retreat good. Ramjoy Sirdar was wounded and seized by the chowkeedar at Taltullah Ghaut, Ramjoy confessed and named the prisoner but he escaped at the sessions.

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The prisoner was arrested on the confession of a man caught in the act, and was made over to the sessions, charged with the Gram Culna dacoity, but there being nothing against him, but the crimination of a fellow-prisoner the latter was convicted,

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The Sirdar in the Shalkoreea dacoity was Satcowree. The Guttuck was Satcowree also, I lived at this time in Kaleedanger, I got notice of this dacoity at my house through Subbassur's mother's brother the day of the dacoity, or the day before that, I can't exactly say. He told me to go and await the arrival of the other dacoits at Taltullah Ghaut, that is from Kaleedanga half *cos*, I arrived at Taltullah at evening, the dacoits had not all arrived then but nearly all had arrived, they were on a Panshway at the Ghaut Shalkoreea is from Taltullah one or one and quarter *coss*, you can go both by land or water, Shalkorea is on the river bank, twenty *begahs* off only. We went by boat, we left the boat when we got to a Bungalow of the Nundee's in Satgacha, the zemindar has his cutcherry there. The prisoner was on the boat when I joined it, he was there when we left the boat. We made *Kalee poojah* on a *chur* north-west of the house we intended to attack. Satcowree performed the *poojah*. It is the business of the Sirdar to perform the *poojah*, or to nominate one to do it. The watchword was *kunchee*. Satcowree gave us the word as we were about to start, after the *poojah*, for the house; we got nothing on this dacoity, few cloths and pewter things. The men of the house, and the people round, pelted us with bricks and we were unable to stay. The only other remarkable thing was that some of us were hit with the bricks, there were bricks there, the wall had partly fallen down. The prisoner was in this dacoity. The Benipoor darogah laid hold of the prisoner in this dacoity on suspicion, but there was no proof against him and the magistrate directed him to be released.

The Sirdars in the Moraguttah dacoity were Satcowree and Teloke Sirdars. The latter was the spy. This was not a very profitable dacoity. The owner had fled from his house, he was a Kamar. We got in jewels and pots and pans about 100 Rs. worth. I was asked to join in this by Teloke Sirdar, I was then living with a woman in my keeping in Satgachea, Teloke Sirdar lives in Satgachia, I had kept the woman for four years before, and was often in her house, Satgachea and Moraguttah are three quarter *coss* off, Moraguttah is one and half *coss* from Culna. The dacoits did not collect that I know of during the day in any place, the place fixed to meet in at night was the Dakole River bank, north of Ishapoor. I went there at evening, I did see the prisoner when I got there. The *Kalee poojah* was made on the north bank of the Okoor Khan Digghee. The Kamar's house was close by. The watchword on this occasion was *jaikalee*, it was given us by the Sirdars after the *poojah*. The prisoner was in this dacoity.

The list of dacoities confessed to by this approver having been read to him, he is asked whether the prisoner went with him in any others besides the six already related. The witness replies that prisoner went on the dacoity in Daie Gram. Why did you not give the name of this dacoity when you were first asked what dacoities the prisoner had committed with you? answer, I did not remember it.

The prisoner has nothing to ask.

The evidence of Nobin Ghose, approver, witness No. 2.

Being interrogated, says; I know the prisoner, he is a connection of mine. He lived in Culna, he was a servant of Mr. Richards at Culna, he was his Gwallah, I was also a servant there, I know Tenu Baboo, he was an up-country Chuttree, I can't say if the prisoner was in any such man's service. The prisoner has a house in Culna, it is near Ram Deen's *baree*, on Tenu's

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but the former was acquitted. This case is therefore one on which the prisoner cannot be put upon his defence again, and it was an error to include the commission of that dacoity in the indictment. The only other case in which the prisoner was

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land I think. It can't be seen from the *boituckkhana* of Subbasur, but it is five or six *beegahs* off. The prisoner has lived in Culna as long as I have known him, which is fifteen or sixteen years ago. He is a dacoit; I have known him to commit dacoity for ten or eleven years past. He has committed dacoities with me, altogether five in number, in four I named him to the commissioner, in one I omitted his name by mistake. The five dacoities are the Gopeenathpore dacoity, the Kishtodebpore, the Deyparah, the Hatgacha and the Somender Ghur dacoity. The first of these dacoities was the Hatgacha dacoity in the house of Hullodhur Mundle.

The sirdars in the Hatgacha dacoity were Beesa Dolea, Satcowree Ghose, Dabee Ghose and Golab Roy and Panchcowree Doss. The latter two did not go however on the dacoity. The spy was Panchcowree Doss, and Golab Roy was spy also, I was asked to join this dacoity by Panchcowree and Seeru Chung, at Dufferpore, where I was in service as a *lateal* with the Shorbomungla Ghosal, I had been in service with this Ghosal five or six months before the Hatgacha dacoity, Dufferpore is from Hatgacha two or two and half *cos*, I was told of the dacoity two or four days before its occurrence, I was told to go to the Saepara *mat* and there wait the arrival of the dacoits, that place is from Dufferpore one-half *coss*, I left Dufferpore the day previous to the dacoity for my own village, Ranadee, the other side of the river, to get men. On the day of the dacoity, I arrived at 3 o'clock at Golab Roy's house at Kaleandy, I left the men I brought with me, eight or nine, on the bank of a *nuddee* and I and Dabee and Kishto Pogla went up to Golab Roy's house. When we got there, we saw several men assembled there, Golab Roy and Panchcowree Doss told me and Dabee to go and wait with our followers on the Saepara north *mat*, where are some *saora* trees. We went there at two or four *dunds* of night, I saw the prisoner on the Saepara *mat*, he had arrived there before me. The gang was composed of men on both sides of the river, Ranadee is immediately opposite to Culna. There were among the dacoits men from other villages besides Culna. The dacoity was made at 12 o'clock at night. The *poojah* was performed by a *mut* north of the Mundul's house, about two *beyahs* from it. We got rupees, pice and sundry property, but I can't say to what value. The only thing which occurred as peculiar in this affair, was that there was a pot of refuse sweetmeats hanging up, I broke the pot and the sweetmeats fell down, I and Dabee eat them. There was also a woman found in one of the houses. She had a little child in her arms, I took it from her, because the other dacoits were pulling the woman about, and there was danger of the child being injured. We also dug the foundation of the cook-room, as we were told by Panchcowree Doss and Golab Roy that money was buried there, but we did not find it. The prisoner was in this dacoity.

I committed the Gopeenathpoor dacoity, next after the Hatgatcha dacoity; it was in the house of Ramdhum Mirah. The sirdars were Roopchand, Madhub Haree and Tarachand Sirdar, also Dabee Roy, who is since dead. The spy was Sadoo Mirah, he is relative of the said Ramdhun Mirah. I was asked to join in this dacoity by Sadoo Mirah, he directed me to go with my followers under a Banian tree on the Gowalpara east *mat* on the river-side, I can't say how many days it was before the dacoity that he told me this, I was then at Ranadee Panpara. On the day fixed for the dacoity, I collected my men and crossed them at Panpara Ghaut, we went straight for the appointed place, we arrived there at one *pahur* of the night some of the da-

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named is one of which the prisoner is not charged, viz: a dacoity which took place in Pooranagunge, on the 11th March, 1848. In that case Deenu Joogee was arrested and confessed that he committed the dacoity in company with the prisoner and with

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coits had already arrived and were sitting down there, I can't say by what time every one had arrived, but we started to commit the dacoity at two *pahurs*. We made *Kalee poojah* on the east *mat*, eight *begahs* from the house, in a cut *dhan* field. The prisoner was in this dacoity, he went with me from Ranadee Panpara, he came the day of the dacoity to enquire if any dacoity was in hand and I took him with me. The watchword was "Pogla" I think or "Kalee Dass," I don't exactly recollect which.

The Deyparah dacoity was next in succession to the Gopeenathpore dacoity. The sirdars were Panchcowree, Boobun Sirdar and Soba Charal, also Dabee Ghose. The spies were Panchcowree Dass and Seeru Chung, I was asked to join in the dacoity by these last two, in my house at Ranadee Panpara, four or five days before the dacoity. The place we were to collect at, was a tank on the Dyeparah east *mat*, Deyparah is on this side of the river (west.) I collected my followers on the day of the dacoity, and starting, arrived at one *pahur* at Golab Roy's house; my followers had separated at the Culna Ghaut, and gone there in twos and threes. We eat some food there, and at about four *dunds* of day remaining, we started in small parties from the tank all the party were there before me. The prisoner was there, he did not go with me across the river, or to Golab Roy's house. He went with Satcowree Ghose. The *poojah* was made on the tank. We got in this dacoity, I can't say what. I got nothing, but I believe some jewels and so forth were obtained. Panchcowree promised to give me something, but he got involved in some case and did not keep his promise.

The sirdars in the Kishtodebpore dacoity were Satcowree Ghose, Dabee Ghose and Beesu Dolea. The spies were Satcowree and Praimchand, I went to Balee Danga to Dabee Ghose's house to learn when this dacoity was to come off. Satcowree and Praimchand then and there told me that it was to take place on the *Rut jatra* and directed me to come with my followers to Culna on that day, I then went home, and on the day of the *poojah*, I went with four or five of my followers to Dabee Ghose's house; having smoked, we and Dabee and his followers, went to Culna to see the *Rut*. It was there settled that we should assemble at night at Nobanga Beel, below the Culna factory. The prisoner joined me at the *Rut*, and went with me to the Beel. There Satcowree came with fire and *mussals*, and at one and half *pahurs* of night, we quitted the Beel, and went to a cut rice-field on the south *mat* of Kishtodebpore. We there made *Kalee poojah*. We got in the dacoity about 200 or 250 Rupees worth of property. The only thing worth mentioning is that the people of the house got on the roof as we commenced the dacoity, and pelted us with bricks, I got hold of a *jhamp* and holding it over our heads, we were able, without getting injured, to cut through the door, Radhanath, one of our number, got a nasty blow on the arm with a brick bat, the prisoner was in this dacoity.

Madhub Doss, witness No. 1, recalled and examined. Being interrogated, says, there is only one Nobeen Ghose of Chota Daoree that I know of. Who is the Nobeen Ghose you named to the commissioner in the Soomra dacoity? This is the man. He was in the Soorma dacoity. The prisoner is called Nobeen Gwallah also. He did go on the Bowanund dacoity. I did not name the prisoner here in this dacoity, as there is no trace of that dacoity.

Nobeen Ghose, witness, recalled and examined. Being interrogated, says, I really can't recollect if the prisoner was present in the Arbalay dacoity.

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Satcowree, Praim Chand and others, but no great reliance seems to have been placed in the confession, for the parties implicated in it were released by the police, and Deenu Joogee was acquitted at the sessions. In the Shalkoreea dacoity, the prisoner was also arrested with Satcowree and Praim Chand on suspicion. Thus in the presumptions, these criminations and arrests give rise to, there is not wanting corroborative evidence that the prisoner was a member of a gang of dacoits. But the direct evidence of the approver is still the great thing against him. The question is whether it convicts the prisoner of the charge?

It seems that the prisoner is well known to Madhub, he was the first to implicate him, and he did it within the first nine days of his apprehension. There is no reason to suppose that he was actuated by enmity, nor does the prisoner allude to any such cause existing at the time that Madhub was first examined, for the incident alluded to by the prisoner, if there is any truth whatever in it, was long subsequent, and could not therefore have operated to give rise to the accusation. In eight different dacoities did Madhub say that the prisoner was present. Five out of the seven charged in the calendar are of the original eight. Without any motive, it cannot be supposed that Madhub would denounce an innocent man. But admitting that such a supposition is not out of the question, it is quite impossible to reconcile the agreement between Madhub's confession and his deposition, with the prisoner's innocence. Is it possible that Madhub could, out of thirty-four dacoities, he confessed to, recollect, after fifteen months' expiration, the particular eight in which it had suited his fancy to say that the prisoner was concerned? If the prisoner was guiltless and had never been on a single dacoity with the approver, then Madhub's original denunciation of him, in this and that dacoity, was a mere wicked whim at the time. If such had been the case, could he in his subsequent examination have recollected the very eight or six out of the eight dacoities, in which he had originally implicated the prisoner? As then I fail to see any motive in the prisoner's accusation, and as it would be impossible to sustain, without contradiction or disagreement, an after-examination, if the original accusation had no better ground to

He was present in the Badagache, Soonraguree, and in the Chandpoor dacoities I was unable just now to recall these dacoities to my memory.

Defence of the prisoner.—I never joined any gang of dacoits; I am quite innocent of the charge. One day in Kartick, Nobeen and Madhub Doss, the approvers demanded 60 Rs. from Satcowree's mother to get him off this charge, I told his mother not to pay. The approvers gave me to understand that they would pay me out for my interference, and that is the secret of their accusation against me now, I have no witness.

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rest upon than private pique, I cannot but regard the testimony of Madhub as very strong evidence against the prisoner.

This evidence has received confirmation by the subsequent denunciation of a second approver; Nobin, witness No. 2, confirms the testimony of Madhub, that the prisoner was in two of the dacoities named by the latter. As in the first case, so in that of Nobin, motive is wanting to account for the accusation. Indeed motive is on the other side, for the approver, Nobin, is nearly connected with the prisoner, and if there is any bias, it is likely to be in his favor. Notwithstanding this and notwithstanding that, the confessions of the two approvers were made without concert, or communication, the coincidence of their testimony agreeing in two cases against the prisoner, does, I confess, carry assurance to my mind that their conjoint testimony against the prisoner is altogether true. Add to this the fact of the prisoner's prior denunciations and arrests, and his bad character, and bearing in mind that he lives in the very head-quarters of the gang, and that he has been apprehended with them on charges of dacoity, the evidence to association is, to my mind, complete against the prisoner.

He denies the charge and pleads that Madhub has accused him falsely as he, the prisoner, was the means of preventing Madhub from getting a bribe from Satcouree's mother. The prisoner had no witnesses to be examined.

I would convict him of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The evidence against the prisoner consists of the testimony of two approvers, one of whom implicates him in five and the other in two of the dacoities charged. Their testimony is corroborated by the fact of his having been twice-named by persons apprehended in dacoities, which occurred several years before the approvers denounced him; and the reason assigned by the prisoner for being named by the approvers, is indubitably false; for they had mentioned his name before the alleged cause took place. Moreover, the prisoner has adduced no evidence to character. We convict the prisoner of having belonged to a gang of dacoits and sentence him to transportation for life.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

SATCOWREE GHOSE ALIAS SAYTO GOROOA GWALA (No. 1,) PREMCHAND BAGDEE (No. 2,) DEENOO JOOGEE (No. 3,) CHUNDEE SHOOREE (No. 4,) BISSONATH DOOLEY (No. 5,) BAIKUNT JUR BAGDEE (No. 6,) MADHUB HAREE (No. 7,) KANGALEE HAREE (No. 8,) AND GOPAUL GHOSE (No. 9.)

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August 2.

Case of SATCOWREE GHOSE *alias* SAYTO GOROOA GWALA and others.

Seven of the prisoners were convicted of having belonged to a gang of dacoits and of having committed the dacoities named in the indictment. One prisoner was acquitted, and the sentence on another was postponed.

CRIME CHARGED.—Having belonged to a gang of dacoits and committed the following dacoities, viz. prisoners Nos. 1, 2, and 5, in the house of Hullodhur Mundul at Hatgatcha, thannah Umbica, zillah Burdwan, on the 21st April, 1844. Nos. 1, 2 and 5, in the house of Kashinath Surnokar at Deypara, thannah Pandooa, zillah Hooghly, on the night of the 8th November, 1844. No. 7, in the houses of Jogomohun Dey and Wooddub Dey Tellee at Nadye, thannah Umbica, zillah Burdwan, on the night of the 12th November, 1844. Nos. 1, 2 and 5, in the house of Dwarkanath Mookerjee at Patmohul, thannah Benipore, zillah Hooghly, on the night of the 24th December, 1845. Nos. 7 and 8, in the house of Ramdhun Moirah at Gopeenathpore, thannah Poorboostul, zillah Burdwan, on the night of the 5th February, 1845. Nos. 7, and 8, in the house of Ramcoomar Ghosal at Arbalay, thannah Poorboostul, zillah Burdwan, on the night of the 10th May, 1845. No. 1, in the house of Tarreneechurn Roy at Patchpara, thannah Benipore, zillah Hooghly, twice on the nights of the 26th July and 16th August, 1847. Nos. 1, 2, 4, 5 and 6, in the house of Keddarnath Poddar at Kishtodebpore, thannah Umbica, zillah Burdwan, on the night of the 22nd June, 1849. Nos. 1, 2 and 3 in the house of Fokeechand Shaha at Shaulkoorah, thannah Benipore, zillah Hooghly, on the night of the 16th November, 1849. Nos. 1, 2 and 3, in the house of Rammohun Kurmokar at Mooraghaut, thannah Benipore, zillah Hooghly, on the night of the 23rd January, 1850. Nos. 1, 2, 3, 4 and 5, in the house of Shiboo Dutt Kasharee at Kulna, thannah Umbica, zillah Burdwan, on the night of the 12th March, 1850. No. 1, in the house of Bindoobasheenee Deybee, wife of Bishtochunder Bundopuddhea at Anoolea, thannah Sooksagur, zillah Nuddea, on the night of the 30th March, 1852. Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9, in the house of Woomeshchunder Bhuttacharge at Soomra, thannah

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Benipore, zillah Hooghly, on the night of the 5th April, 1853. Nos. 1, 2, 3 and 6, in the house of Goorodial Kooloah at Nagurgatchee, thannah Umbica, zillah Burdwan, on the night of the 5th July, 1853. No. 9, in the house of Gokool Doss Byragee at Malunchopara, thannah Nuddea, zillah Nuddea, on the 12th July, 1853. Nos. 1, 2, 3, 4, 6, 7 and 8, in the house of Rajnarain Moduck at Sookray Potee Gopeenuggur, thannah Benipore, zillah Hooghly, on the night of the 29th October, 1853, and Nos. 1, 2, 3, 4, 5, 6, 7 and 8, in the house of Jodoo Augooree at Soomra, thannah Benipore, zillah Hooghly, on the night of the 6th January, 1854.

Committing Officer.—Baboo Chunder Seekur Roy, deputy magistrate under the commissioner for the suppression of dacoity at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 25th June, 1855.

Remarks by the additional sessions judge.—The prisoners are charged with having belonged to a gang of dacoits, and to have committed the following dacoities, viz.

1. A dacoity in the house of Hullodhur Mondul of Hatgacha, thannah Ambeeka, zillah Burdwan, on the night of the 21st April, 1844.

2. A dacoity in the house of Kasseenath Surnokar of Deypara, thannah Pandooa, zillah Hooghly, on the night of the 8th November, 1844.

3. A dacoity in the houses of Juggmohun Day and another of Nadye, thannah Ambeeka, zillah Burdwan, on the night of the 12th November, 1844.

4. A dacoity in the house of Dwarkanath Mookerjee of Patmohal, thannah Baneepore, zillah Hooghly, on the night of the 21st December, 1845.

5. A dacoity in the house of Ramdhone Moirah of Goopeenathpore, thannah Poorboostul, zillah Burdwan, on the night of the 5th February, 1845.

6. A dacoity in the house of Ramkomar Ghosal of Arbalay, thannah Poorboostul, zillah Burdwan, on the night of the 10th May, 1845.

7. A dacoity in the house of Tareenee Churn Roy of Patahparah, thannah Benipore, zillah Hooghly, on the night of the 26th July, 1847.

8. A dacoity in the house of the above, on the night of the 16th August, 1847.

9. A dacoity in the house of Kedarnath Potdar of Kishtodebpoor, thannah Ambeeka, zillah Burdwan, on the night of the 22nd June, 1849.

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10. A dacoity in the house of Fokeer Chand Shaha of Shalkorah, thannah Benipore, zillah Hooghly, on the night of the 16th November, 1849.

11. A dacoity in the house of Rammohun Kurmokar, of Morahghaut, thannah Benipore, zillah Hooghly, on the night of the 23rd January, 1850.

12. A dacoity in the house of Sheeboo Dutt of Kalna, thannah Ambeeka, zillah Burdwan, on the night of the 12th March, 1850.

13. A dacoity in the house of Bindoobasnee Debba of Andleea, thannah Sooksagur, zillah Nuddea, on the night of the 30th March, 1852.

14. A dacoity in the house of Woomesh Chunder Bhuttacharjee of Soomra, thannah Benipore, zillah Hooghly, on the night of the 5th April, 1853.

15. A dacoity in the house of Goorudyal Koolu of Magurgachy, thannah Ambeeka, zillah Burdwan, on the night of the 5th July, 1853.

16. A dacoity in the house of Gocool Doss Byragee of Malunchopara, thannah Nuddea, zillah Nuddea, on the night of the 12th July, 1853.

17. A dacoity in the house of Rajnarain Moduck of Sookraypotee Gopeenuggur, thannah Benipore, zillah Hooghly, on the night of the 29th October, 1853.

18. A dacoity in the house of Judoo Augooree of Soomra, thannah Benipore, zillah Hooghly, on the night of the 6th January, 1854.

The prisoner No. 1, Satcowree Ghose, is charged with having been concerned in the 1, 2, 4, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17, dacoities.

The prisoner No. 2, Prem Chand Bagdee, is charged with having been concerned in the 1, 2, 4, 9, 10, 11, 12, 14, 15, 17 and 18, dacoities.

The prisoner No. 3, Deenoo Joogee, is charged with having been concerned in the 10, 11, 12, 14, 15, 17 and 18, dacoities.

The prisoner No. 4, Chunder Scoree, is charged with having been concerned in the 9, 12, 14, 17 and 18, dacoities.

The prisoner No. 5, Bissonath Dooley is charged with having been concerned in the 1, 2, 4, 9, 12, 14 and 18, dacoities.

Prisoner No. 6, Boikunt Bagdee, is charged with having been concerned in the 9, 14, 15, 17 and 18, dacoities.

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Prisoner No. 7, Madhub Haree, is charged with having been concerned in the 3, 5, 6, 14, 17 and 18, dacoities.

Prisoner No. 8, Kangalee Haree, is charged with having been concerned in the 5, 6, 14, 17 and 18, dacoities.

Prisoner No. 9, Gopaul Ghose, is charged with having been concerned in the 14 and 16, dacoities.

The witnesses are four in number, all of whom are regular approvers on the establishment of the commissioner for the suppression of dacoity.

Witness No. 1, Madhub Doss deposes to the 1, 2, 7, 8, 9, 10, 11, 12, 13, 14, 15 and 17, dacoities.

Witness No. 2, Nobin Ghose, deposes to the 1, 2, 3, 4, 5, 6 and 9, dacoities.

Witness No. 3, Daybee Ghose deposes to the 1, 2, 3, 4, 9 and 18, dacoities.

Witness No. 4, Roychurn Joogee deposes to the 13, 14, 16, 17 and 18, dacoities.

The figured statement, given below, exhibits the result of each approver's examination before me and before the dacoity commissioner, respectively, and shows how far they have been consistent in their evidence against the prisoners.

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Number and name of prisoner.	No. 1. Hatgacha.	No. 2. Deypara.	No. 3. Nadye.	No. 4. Patmahal.	No. 5. Gopeenath-pore.	No. 6. Arbalay.	No. 7. 1st Patapara dacoity.	No. 8. 2d Patapara dacoity.	No. 9. Kishtodeb-poor.	No. 10. Shawlkorah.	No. 11. Moraghghat.	No. 12. Kalna.	No. 13. Anoleea.	No. 14. Soomra dacoity.	No. 15. Nagurgucha	No. 16. Malonchopara.	No. 17. Sookaputtee Gopeenug-gur.	No. 18. 2d Soomra dacoity.
1 Satcowree Ghose,	1.2.3 1.2.3	1.2.3 1.2.3	2.3 3	2.3 2.3	.. ..	.. ..	1 1	1 1	1.2.3 1.2 3	1 1	1 1	1 1	1.4 1.4	1.4 1.4	1 1	.. ..	1.4 1.4	3.4 3.4
2 Premchand Bagdee,	1.2.3 1.2.3	1.2.3 1.2.3	2.3 ..	2.3 2.3	.. ..	.. ..	.. ..	.. ..	1.2.3 1.2.3	1 1	1 1	1 1	4 4	1.4 1.4	1 1	.. ..	1.4 1	3.4 3.4
3 Deenoo Joogee, ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. 1	1 1	.. 1	1 1	.. ..	1.4 1.4	1 1	.. ..	1.4 1.4	4 4
4 Chundee Shooree,	1 1	.. 1	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	1.2 1.2	1 1	1 1	1 1	.. ..	1.4 1.4	1 ..	.. ..	1.4 1.4	4 4
5 Bishanath Doolay,	1.2.3 1.2.3	1.2.3 1.2.3	.. ..	2.3 2.3	.. ..	.. ..	.. ..	.. ..	1.2.3 1.2.3	.. ..	.. ..	.. 1	.. ..	1.4 1.4	1 ..	.. ..	1.4 ..	4 4
6 Bykuntjur Bagdee,	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	2 1.2	.. ..	1 ..	.. ..	.. ..	1.4 1.4	1 1	.. ..	1.4 1.4	4 4
7 Madhub Haree, ..	.. ..	.. ..	2.3 2.3	.. ..	2 2	2 2	.. ..	.. ..	2 ..	.. ..	.. ..	.. ..	.. ..	1.4 1	.. ..	.. ..	1.4 1.4	4 4
8 Kangalee Haree, ..	.. ..	.. ..	.. ..	.. ..	.. 2	2 2	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	1.4 1	.. ..	.. ..	1.4 1.4	4 4
9 Gopaul Ghosal, ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	.. ..	1.4 1.4	.. ..	4 4	.. 1	.. ..

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To place the evidence against the prisoners in the clearest view, to facilitate comparison between the deposition of one approver and another, and to be of use in any future commitment of members of the same gang, I think it advisable to supply a complete translation of the entire evidence taken at the trial.

The evidence of Madhub Doss, approver, witness No. 1.

I was acquainted all along with all the prisoners, I did commit the dacoity at Hatgacha in the house of Hullodhur.

Mention the particulars.

Eight or nine years ago, I committed this dacoity. The Sirdars were Panchcowree Doss and Golab Roy. They were also the spies on the occasion, Panchcowree's house was in Hatgacha, his nephew, Praimchand told Soonder Sirdar of the house and Soonder brought me word at my house in Balegachee, he told two or four days before the dacoity. On the morning of the day of the intended dacoity, I and Soonder went to Golab Roy's house in Kaleanoy, and there we took refreshments, at 12 o'clock P. M., the gang began to collect and all had arrived by evening. Starting off, one at a time, we made for the place of rendezvous and at 10 o'clock at night we were all assembled on the Soepara *Mat*, south of Hatgacha, Cheru Chung brought clubs, &c., from his house in Koegurrea, we got up from there and adjourned to a temple under a Peepul tree to the north of Hullodhur's house where we performed *Kallee poojah*. After that we went away to Hullodhur's house. It had a wall round it and there was a wooden door at the main entrance. One of us scaled the wall and undid the front door, when the main body of the dacoits entered the premises, Dabee Ghose and others were left outside as sentries, the rest of us entered the yard and Hullodhur's wife was then seen running off. I laid hold of her, took off from her arm a *loha*, and then I let her go. No one was found in the house, except a boy of seven or eight years old, he woke up and began to cry, Nobin Ghose took him up in his arms and said, tell us where the property is, he said it was in this house. We dug up the floor, but found nothing, going into another house we found a box on the ground, we broke it open and obtained from it rupees and pice about 150 rupees worth, I tied the whole up in my clothes and then all of us having decamped from the place to the bank of a Nuddee in Kogra Gurree *Mat*, to the north of Hullodhur's house, the plunder was divided, a rumpus arose among us about the division, and each man took what he could lay hands on, there was therefore no regular division, Nobin Ghose asked me for a portion of what I secured, and I gave him two handsfull of rupees and pice, which were mixed together, we then each went to his own quarters, I got 70 or 80 rupees. There was a report made of the dacoity, but none of us were discovered. Thirty or thirty-one persons went on this dacoity; prisoners

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Nos. 1, 2, 5 and 4, Nobin witness No. 2, Daybee witness No. 3, Ishore Ghose, prisoner No. 2, Praima Sudgope, Mohaish Ghose, Mohun Ghose, Soondar Sirdar, Chundee Bagdee, Hurree Haree, Nobin Ghose, of Chota Daoree, I can't recollect the rest, I also gave some money to Soondar Sirdar. The money and property, which Dabee and Nobin got, they gave to Golab Roy, he is Nobin's *durrum bap*, Dabee is the husband of Nobin's sister, that's why they gave Golab Roy their share, they also lived with him, I got nothing but the 70 or 80 rupees I succeeded in getting at first, I did get six rupees from Sumboo Badoree three days after the dacoity—I forgot this, I went to Sumboo who was a receiver, and said I have got nothing, so he gave me six rupees from the share of the others, I don't recollect that any one else was paid any thing out of the proceeds of this dacoity. Sixteen rupees were paid to the zemindar of Umbeeka thannah, as he knew that we committed the dacoity. Golab Roy did not go in this dacoity: adds to the list already given the names of Budden Mussulman, Neema Moochee, Juddoo Dome, Gunga Banea, Shagora Bagdee, Radoo Teore, Shaboo Goala, Boicunt Ghose, Teloke Sirdar, Mudden Roy, who also went on the dacoity, Golab Roy is a dacoit, he was one of the spies, his house being close, he would not go, as he would have been suspected, I can't recollect who dug up the floor.

I was also present, ten or twelve years ago, in the dacoity in Dapara in the house of a goldsmith. The Sirdar and the spy was Panchcowree Doss, one or two days before the dacoity Soonder Sirdar told me of it. Having eat our dinner, on the day of the dacoity, I and Soonder Sirdar started off together and went to Panchcowree's house, the men were then collecting, starting from there we went to a tank, east of Dopara, there we performed *Kallee poojah*, and thence we arose and went to the goldsmith's house. One of us scaled the wall and opened the sudder door, all then entered the enclosure, and cutting the door of the house, and going inside we plundered it of cash and ornaments, &c. As we were coming out, the villagers fired arrows at us, and I got one in my leg, and a number of them having collected together we were obliged to retreat suddenly. There was no division, each took what he found in the house, I only got a *bajoo*, twenty or twenty-five men in all went, 200 or 300 rupees worth of plunder was obtained. There was in this, dacoity Nos. 1 and 2. Panchcowree Doss, Bhobun Chung, Huree Haree Chundee Bagdee, Praima Kyburrut, Nobin Ghose, witness No. 2, Sheeba Chung, Dabee Ghose, witness No. 3, Ishore Ghose, Mohun Ghose, Mohaish Ghose. I don't recollect any more, on account of this dacoity afterwards, I gave the *bajoo* I got, to Golab Roy, and he gave me eight annas as my share, Sheeba Chung was one of the three Guttucks, Golab Roy and Panchcowree Doss were the other two adds the name of Gungaram

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Sirdar, Soonder Sirdar, 2nd Ishore (now dead) Gunga Bagde (dead) Muddun Mussulman, Neema Moochee, Muddun Roy, who also went on this dacoity, Golab Roy did not go on this dacoity, Bissa Dolay did go, I did not name him from inadvertence. Says Golab Roy did go, and that he mistook in saying the contrary.

Four or five years ago, I committed two different dacoities in the house of Tareeneechurn Roy of Panchpara; on the first occasion, Seeru Chung, No. 1, I and another person, whom I don't recollect, went; we scaled the wall, having made a hole by the side of the door, we put our hand in and opened the fastening. Entered the house, we took off from a woman's neck a *panchnullee*, she woke up then, and cried out and we bolted. The chowkeedar came and prepared to assail us with his *lattee*, and sword, but prisoner No. 1, and I disarmed him. The chowkeedar then fled for fear, and we did the same. There were no *mussals*.

Five or six months after the above affair, we committed a regular dacoity; Seeru was the Sirdar and the spy; he collected every body. I had then fled to Mooragurreea, Seeru was staying with me, we had gone to Santipore to commit a dacoity there, and on our return, Seeru proposed to commit this dacoity, and he sent me ahead to our lodging to get ready the *mussals*, &c., Seeru remained with the assembled gang on the *Mat* of the village where the dacoity was to be, i. e. at Panchpara. He sent me word when he and his followers got to this place, and I took to them the *mussals* and weapons I had prepared, we then adjourned to a field near the house to be attacked and made *Kalee poojah*. Having scaled the wall and opened the outer door, all entered the compound, Anund Shokorie, Khodea Burratee, &c. remained as sentries, the rest went to sack the houses, cutting through the door, and making an entrance for ourselves, we broke open boxes, *pittarahs*, &c., and plundered them of every thing. We took the weapons of the chowkeedar whom we found asleep in the outer apartment, we detained him while we were engaged upon the dacoity. None of the villagers dared to come close. Having left the village and proceeding as far as about a quarter of a *coss*, where is a tree under which the *Gade poojah* is performed, every one was searched. A quarrel arose among us, and there was no division, I got a shawl, we were only ten or eleven men on this affair. Not one of us was discovered. There went with me prisoner No. 1, Seeru Chung, Bykunt Ghose, Khoodeeram Baretre, Radoo Teore, Telock Teore Sirdar and others, whom I don't recollect, I was sent by Seeru Chung from Santipore, weapons were to have been furnished to us by the spy to that dacoity, we took no weapons with us therefore. The place where we were to commit the dacoity was in Hanskalee, it is from Santipore,

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seven or eight *coss* off, we had been to Hanskalee and had returned to Santipore. There were not enough of us to commit the Hanskalee dacoity, I got a *mull* or a pair of *mulls* in this dacoity. Nothing else that I recollect. I pledged the shawl to Radhanath Banerjea, we could not catch the chowkeedar on the last occasion, adds the names of Muddun Ghose, Loka Dome as those who also went on the 2nd dacoity, each began to seize something out of the heap, therefore there was no division, I did not recollect to say here that one of the reasons why there was no division was, that Shatoo had run off with a considerable portion of the plunder, and that being the case, no one else could give up what he had.

Five or six years ago, I was present on a dacoity in the house of a Potdar of Kistodaibpore. The Sirdars were Dabee Ghose, Satoo Goroe and Bissa Dolea. They called the gang together; No. 1, was the spy, he sent me word. On the day of the *Rutjatra* at Umbika, we collected on the *chur* there, we settled all about the dacoity when we met at the *rutt*, No. 1, brought us a *koolharree* and *mussals* to the *chur*, Nobin and Bridgo Gowallah cut bamboos and *chars* and brought them to us. At nine or ten at night we left the *chur*, and arriving on the *Mat* south of Kistodaibpore, we made *Kallee poojah;* going to the destined house, we sealed the wall, undid the door and let in all the gang. The owner of the house pelted us with bricks from the roof of his house, we took up a *jamp* and holding it over our heads for protection, we cut through the door of the house and having plundered it of its contents came out. The villagers assembled and made a noise from a distance, we got nearly a 1,000 Rs. worth of property. Having reached the plain, there was a search, I got ornaments and cloth to the value of 30 Rs. In this dacoity the following were the gang: Praima Bagdee, Nos. 1, 4, 5, Dabee Ghose, Nobin Ghose, Praimchand Ghose, Mohaish Ghose, Odeed Bagdee, Mudden Roy, Nobin Ghose, (2nd witness) Bridjo Gwalla, the rest I don't know, but adds directly, Gunga Banea, Muddookona Ghose. We settled all about this affair in the day and met at night on the *chur*, we took the *jhamp* from one of the doors. I don't recollect that I got any thing more than I have specified above, out of the proceeds of this dacoity. I know Mudden Huldar, I have sold him some of the things I got in this dacoity, a *chunderhar*, and perhaps a *poinsee* and a *majolee* for how much, I don't recollect. The *chunderhar*, &c., I got as my share when the division was made,—contradicts himself and says there was no division at all; Nobin and prisoner took every thing, promising to give us our shares afterwards, I got the *chunderhar*, &c., by concealing them at the search. I can't recollect if I got any thing as my share from prisoner No. 1, or from Nobin; adds the names of Praima Dolea of Akechukka,

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Kungla Moohcee, Shuka Mussulman, Hubboo Mussulman, Jaddoo Dome, Bykunt Ghose, Budden Mussulman, Shuka Bagdee, who also went on this dacoity, Subbusur Balacharus was also the spy on this occasion.

About two or four years ago, I was present at a dacoity in Murraghutta, in the house of a Kamar, Teloke was the Sirdar, I can't recollect who the spy was, prisoner No. 1, and Shaboo Gowallah invited me to it; at evening of the day of the dacoity, we all assembled on the bank of Okund Khan tank, near Murraghutta; we took bamboos and so forth with us; sitting there and doing *Kallee poojah;* at twelve at night we went to the intended house, scaled the wall, and opening the door, we entered the premises: prisoners Nos. 1, 2 and 4, were the sentries, the rest went up to the houses, cut through the doors and sacked the place of every thing. The owner had fled, there was no cash found, only a few ornaments. There was no search; each took what he was successful in finding. I got nothing. There were in this affair Nos. 1, 2 and 4, Bykunt Ghose, Goora Dome, No. 6, Shabo Gowallah, No. 2, Bykunt Ghose, Radoo Teore, Gunga, Banea; adds afterwards the names of Muddun Roy, Moonshad Mussulman, Gokla Dolea; Muddun Ghose, Loka Dome, who he says also went on this dacoity.

About four or five years ago, I went on a dacoity in Shaulkoreah in a Sooree's house. Prisoner No. 1, was the sirdar and the spy. On the day of the dacoity, prisoner No. 1, having brought us bamboos, &c., we all went in a body to a boat in Taltulla, this was about ten at night; we pushed off on board the boat and put to below Shaulkoreah, near the house we intended to attack. We then went by land to the house. There was a door which was opened by some one scaling the wall and opening the latch. Having entered the premises, the owner began to pelt bricks at us; some of us were hit, so we were prevented from making this dacoity; we left the place, I went home by the Satgachea road, the rest went off in the boat. There were in this expedition, prisoners Nos. 1 and 2, Seerukait No. 4, Gunga Banea, Mudden Roy, Nobin Ghose, Brijo Ghose, Bycunt Ghose, Shabo Gowallah, Teloke Sirdar, Hadoo Teore, the rest I don't know. Adds afterwards No. 3, Denoo Joogee, Moonshad Mussulman, Jadoo Dome, Kangala Moochee, Nemoo Moochee, who also went on this dacoity; we did not effect an entrance into the house. I went inside the house, we broke nothing inside. Persists in saying, they broke open no chests or boxes. I got only a pair of *ornee kapra,* which I picked up in the house.

About four or five years ago, I committed a dacoity in Gram Kulna, in the house of a Kassaree. Prisoner No. 1 told me of the intended affray: Shubbessur Bhutacharjee informed the others; at evening of the appointed day every one collected below the Kulna factory. Prisoner No. 1 brought the weapons to

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us from his woman's house, leaving the factory we started off to the *chur*, north of Kulnafactory; there we sat down and after making *Kallee poojah* we adjourned to the intended house. There was no outer wall, we cut the door of the house, entered it, broke open the boxes, and took the money inside them, and a jar of pice: we caught the owner and his wife and they shewed us in a hole in the wall some more money and jewels, these we took; as we left the house, we were opposed by the villagers. I effected my escape, fighting my way, after reaching Taltulla Ghaut; the village chowkeedar wounded Ramjoy with a sword, and apprehended him; we scampered off each to his own house: there was no search or division of plunder. Ramjoy Sirdar confessed and named me and prisoner No. 1, and others; they were made over to the sessions, where they were released, but were put in jail on default to give security, from which they afterwards got off. I was named, but I was not summoned. There were in this dacoity Nos. 1 and 2, Seeru kait, No. 3, Gunga Banea, No. 4, Muddun Roy, Nobin Ghose, Brijo Ghose, Byount Ghose, Gora Dome, Moonshad Mussulman, Kangla Moochee, Sadoo Gowallah, Muddookana Ghose, Jadoo Dome; adds afterwards Nemo Moochee, Hubboo Mussulman, Budden Mussulman; I got in this affair 50 Rs. worth in cash and jewels, the latter I pledged to Muddun Holdar, for any thing he liked, there was nothing said about price, I fled after this dacoity on Ramjoy's apprehension, and hid in Mudden Holdar's house. I was caught in another dacoity and sentenced to ten years, but the Sudder Nizamut let me off. The police were not able to catch me, but Mudden paid the Buxshee 100 Rupees, so he said to me, on my account to get me off this dacoity.

Two or three years ago, I committed a dacoity in the house of a Brahmin of Andolea, Nemai Neckaree was the Sirdar, Ram Chung Myra assembled us, four or five of us left Ambeea with Ram Chung on a boat which we embarked upon at Soonra, on it we went to Bullaguree, there we were joined by some others who were waiting for us in a Sooree's shop; they got on board our boat, opening it we arrived the same day at Chagda; at six *ghurrees* of day remaining, we quitted our boat, by travelling by land we arrived at evening on the bank of the river south of Andolea. There we prepared our implements, and going to the east of the intended house, we sat down and made *Kallee poojah*. This done, we went to the house, scaled the wall, opened the *kirkee* door, and entering the compound we got on the roof of the house by means of a ladder we brought with us, we hacked at the door of the upper story, but we failed in effecting our object, as we found the door had been built up behind with bricks, coming below, the house chowkeedar appeared on the roof and threw bricks at us; Ramchunder Moyra got hit, we could not manage to plunder any thing and

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we left. There went in this collusion No. 1, Ramchunder Muddock, Ramchurn Joogee, Nemai Nickaree, Shama Bartee, Khala Chural, Shaboo Gowallah, Radoo Teore, Tiloke Sirdar. Adds Bykunt, Muddun Ghose, Loka Dome, Beera Bagoree: we took a gun with us on this occasion, it was fired while we were plundering, it was fired as we came out, no one was caught in this dacoity.

Two or two and half years ago, I committed a dacoity in the house of Omeish Bhuttacharja of Soomra, Bisse Dolea was the Sirdar, Ramchurn Joogee was the spy, the latter assembled the men, and he it was who sent word to me on the day appointed for the dacoity. I started from my house in Kaldanga and arrived at night on the west *Mat* of Soomra; in that place there were others collected, I joined them at twelve at night, we performed *Kallee poojah*, and then started for the destined place; we cut through the *sudder* door, left sentries there, but I can't say who. I went inside at one of the door-ways, which led to the inner apartments, a man was standing with sword in his hand, he cut in two every lance we thrust at him, but we knocked him over at last with a *lattee* and made our entrance good, through the door which was open. The inmates had in the mean time got on the roof, but we went inside, broke open the boxes and took the contents. The villagers did assemble, but did not approach near us. Having left, we crossed the river below Kolopara and on the other side the search was made 2 or 3000 Rs. worth of property was obtained; all was not delivered up to be divided,--some had run away with what they managed to get;—a division took place among those present, I got a silver *hooka*, glass, *saree*, &c., &c., no one was apprehended in this case. The gang was composed of the following, Nos. 5, 1, 2, 4, Gopaul Ghose, No. 9, Kangla, Nos. 8, 7, 6, 3, Goora Dome, Seeru Bagdee, Raichurn Joogee, Boodu Byragee, Busseerooddeen Mussulman, Shabo Gowallah. Radoo Teore, Teloke Sirdar; adds Nemo Moochee, Gopaul Dolea, Praima Dolea, Jadoo Dome. We fired a pistol at the chowkeedar, it was not loaded with ball, but the report tumbled him over, and then we secured him with a blow of the *lattee*. I sold the glass and *hooka* to Bippoochurn, there are four brothers of that family. We caught a woman of the house, she said nothing; we also beat the chowkeedar whom we found outside, we detained him. The woman had a child and she entreated us to spare her child.

About two years ago, I was present in a dacoity in Nagurgachee, in the house of a Kyburut. Prisoner No. 1, was the Sirdar, Gooruchurn Dome was the spy. We all started for Umbica and collected on the *nuddee* bank near Farringachee village. Leaving that for the south-west of Nagurgachee we did *Kallee poojah* there. Then going upon our business, we found the door open, and saw the owner sitting in his verandah and smoking.

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He ran off as we approached, throwing his *hooka* down. He was the village gomashta, he had by him a bundle of rupees which he also threw down, we took it, and also all we found in the house. The villagers assembled, but did not approach us. Having got to the *Mat* every one was searched. I got twelve rupees as my share. Two hundred rupees worth was obtained, we were in all sixteen or seventeen men, and these were among them, viz., Nos. 1, 2, 3 and 4, Seeru Kait, Gora Dome No. 6, Sreemunt Bagdee, Gunga Banea, Doorga Charal; I did not get twelve rupees in the division, but two in the division and ten I got in pice, which I was allowed to keep; adds the name of Sagra Bagdee to the list already given.

Two or two and a half years ago, I committed a dacoity in a Moira's house in Gopeenuggur, a Puttee of Sookrea. Raichurn Joogee assembled every body, we all collected in Kulna, and at night started for the Sookrea *Mat*, there we sat down, made *Kallee poojah* and started off to the house of the *moira*, we reached it at 12 o'clock, some one scaled the wall and undid the door, we went inside the premises, when we began to batter the door of the house, the inmates fled, we entered the house, plundered it, while we were so engaged, bricks were pelted at us, we left the place, reaching the Natagurree *mydan*, there was no division. Two or three hundred rupees worth was obtained, it was all made over to prisoner No. 1. to sell and give us our shares, but he paid no one, we were eighteen or nineteen of us in this affair, and there were among them, Nos. 1, 2, 9, 4, 7, 8 and 6, Gora Dome, Sreemunt Bagdee, Shagra Bagdee; adds Gopeenath Doss, Jadoo Dome and Moonshad Mussulman, I do not know the names of those who went with us from Kaderpoker; I did get eight rupees from prisoner No. 1. The cash was divided at the search and I got two rupees.

Nobin Ghose approver No. 2, being interrogated says, I know all the prisoners at the bar, I committed the dacoity at Hatgacha in the house of Hullodhur Mundul.

Q. Describe the particulars of this dacoity?

A. About ten years ago, I committed the above-mentioned dacoity in the house of Hullodhur Mundul. The prisoners Bisshonath Doley and Debe Ghose were the Sirdars, and Seeru Chung and Panchcowree Doss Kyburut, were the spies on that occasion. Panchcowree Doss gave me information, Golab Roy of Kulna collected the dacoits and took them to his own house. All the Kulna dacoits were taken by Cheeru Chung, Sooeepara plain. Two *dunds* of the day remaining, we being about ten or twelve in number, started from Golab Roy's house and reached the Sooeepara plain, where Cheeru Chung and others had gone before; at four *dunds* of night, Cheeru Chung had prepared bamboos, *mussals*, &c. We set out with these, and making *Kallee poojah* near a temple at Hatgacha, we went to the house intended

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to be robbed, the wall was scaled, the *kirkee* door undone, and we entered the house, Deby Ghose, Jadoo Bangal, Kishto Boono, and the prisoner Bishonath remained upon guard, I went to the *thakoorbaree mahal* where some of the people of the owner of the house were, in order that they might not escape. The rest of the dacoits went into the inner *mahal*, broke open the doors and plundered the house, I went in afterwards, and saw that the dacoits were digging the floor of the room where there was a woman with a child in her lap. I took up the child and leaving it in the *thakoorbaree*, returned to my post. After which all the dacoits came out of the house. The villagers assembled at a distance and made a shouting, but did not venture near. Proceeding to the *Mat*, the search was made; about two hundred rupees worth in all was obtained. There was no division, every one ran away with what he got, I got 32 Rs in silver and two ornaments, none of us were apprehended, and the gang consisted of prisoners Nos. 1, 2, and 5, Haran Sheikh, Myajan Mussulman, Nundo Ghose, Mohun Ghose, Premchand Ghose, Radhanath Ghose, Deby Ghose, Odit Bagdee, Issur Ghose, Nokoor Moyra, Seeru Chung, Premchand Kyburt, Madhub Doss approver, Soonder Sirdar, Jadoo Bangal and Kishto Boono. I do not recollect the names of any other persons.

To the Court.—I got some money, but can't say how much, from Golab Roy, ten or twelve days after the dacoity, I don't recollect to have got any money from Gopaul Bona, Kishto Bona's mother did sell some of the ornaments in my presence to Hurris Potdar. Admits that Gopaul Bona did give him eight rupees on account of his share, I can't say that I told the dacoity commissioner that there was no division of ornaments, Golab was the Sirdar, but he did not go on the dacoity, Gopaul Bona did not go either. The dacoits dug up the floor because Panchcowree Doss had told them that money was buried there, I know Shumboo Badoree, he is the chowkeedarees sudder buxshee, Gopaul Bona's former *baree* was where Shumboo Badoree's father-in-law lives, Gopaul Bona was obliged to run away from there on account of his implication in some dacoity case. When he came to Hurreepara Chur he did not actually put up with Shumboo Badoree, but the proceeds of his dacoities were lodged by him with Shumboo, and he as good as lived with that individual.

About nine years ago, I committed a dacoity in the house of a goldsmith in Daypara, Deby Ghose, Sabuck Sirdar and Seeru Chung were the Sirdars and the spies. Panchcowree and Seeru told me of the dacoity, ten or twelve of us proceeded at 12 o'clock P. M. to Golab Roy's house in Kalanoi village, we took refreshments there and starting at 3 P. M. we proceeded to the east *Mat* of Daypara and collected on the bank of a tank there at six *ghurrees* of the night, Shatuck and Panchcowree had col-

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lected men, and they were then before us. They had prepared bamboos, lances, &c., at twelve at night we made *Kallee poojah* and started for the house we intended to attack, scaling the wall, and opening the door, we got admittance inside the premises. Deby Ghose, Panchcowree Doss, Hurree Harree and I remained upon guard. The rest went to plunder, having done so, as we were leaving, the villagers assembled and shot arrows at us, Madhub Dass got hit on the leg, we succeeded in getting clear, but in doing so had to throw bricks. I saw with my own eyes only twenty or twenty-five rupees worth of property, who carried off the rest I cannot say, I got no money, next day Panchoowree Doss gave me six rupees. About twenty men joined in this dacoity. There were Hurree Harree, Seeru Charal, Munnoo Charal, Satuck Sirdar, Panchcowree Doss, Madhub Doss, Nos. 1, 5, and 2, Oddeet Sirdar, Mohun Sadgope, Premchand Sadgope, Ishore Ghose, Prishun Sooree, Nund Ghose, Sunto Mussulman, Khoodeeram Baratee, Deby Singh, Bhoota Mussulman, I do not recollect any one else. We caught the owner of the house, but did not beat him. I did not go inside the house, so I can't say if there were women; corrects himself and says there were women. I did not recollect to tell the commissioner that I got six rupees. We had to cross the Shorbomungia *nuddee*, also a *nuddee* under Furringgachee, also a *nuddee* called Oijon Puttergulla. We crossed these fording them. On being questioned says, we crossed also the Kulna river by the Ferry-boat. The Ferry-man knew of our proceedings, his name is Petumber Banea.

Q. Was any one of Satgacha employed on that ferry.

A. Yes, Jadoo Dome, he was servant of the farmer of the Ghaut.

We did not give any of these any thing of the plunder of this dacoity. We used to pay them generally well, that's why we were carried over for nothing.

Eleven years ago I committed a dacoity in a Talee's house of Nadoy, Dabee Ghose, Madhub Haree, and Roopchand Sooree, were the Sirdars, who the spy was, I am not able to say. Dabee Ghose took me with him at about nine of the night, and we proceeded to the south-east *Mat* of the village, others had arrived there before us with weapons, we joined them and then the *Kallee poojah* was made; starting for the Talee's house, we got to it at eleven at night. It was surrounded by a wall, one of us having scaled the wall, undid the bolt and let the rest in; I, Dabee Moochee, Ram and Mohun Ghose, remained on guard, the rest having plundered the house, we all came out. None of the villagers shewed fight, no one was hurt. Having reached the *Mat*, there was search, I got a *bala* and *gote*, &c., about 40 Rs. worth. The following went on this dacoity, Moocheeram Ghose, Mohun Ghose, Ishore Ghose, Prishun Sooree,

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Q. Then why did you tell the commissioner, that Nobin took all the property for sale and sold it to Kisto Potdar for 500 Rs. of which he gave you 50 rupees?

A I did tell the commissioner this, the property which Nobin took was the share of others. I did receive mine at the time as I above stated. What I got from Kishto was the price of things belonging to others, which I was the means of sending to Kishto, he gave me Rs. 50 for this service.

Eleven or twelve years ago I committed a dacoity in Patmahal adjoining Badagachee in the house of Dwarkanath Mookerjah. The Sirdars were, I, Dabee Ghose, and Beesu Doolea, who the spy was I can't say; we collected the men, and each leaving his house went and sat down in an orchard, west of Patmahal, the gang assembled there, Beesu Doolea and Praim Bagdee prepared the weapons and brought them to us in the orchard. Having made *Kallee poojah*, we adjourned to our business, Sagur Bagdee knew the house, but he was uncertain about it when it came to the time, so we made a bit of a circuit at night, the house was found, I scaled the wall and opened the outer-door, and the gang entered, Beesu Doolea, Praimchand, Dabee Ghose, and I. were the sentries. There was a durwan of the house by name Toolsee Para, I hit him with my *lattee* and I and Torun Ghose secured and bound him. Those who were engaged on the plunder did it effectually and we all came out. Those of the dacoits who live this side of the river ran off with what they had secured, we, of the other side, as many as we were, having crossed the river and got upon the plain were searched. It was all given to Dabee Ghose to keep, I kept a pair of *panbatas* and a glass calling them pewter, but they were really silver, I also managed to keep a gold *murdana* and a *shawl*. Five or six days after I, Dabee Ghose and others were seized for this dacoity and tried at the sessions, but we were acquitted. Dabee gave no one any share of the plunder. There were in this dacoity prisoners Nos. 1, 2 and 5, Ishore Ghose, Praimchand Ghose, Mohun Ghose, Radhanath Matoo, Ranmaish, Myhaish Ghose, Nund Ghose, Prishun Sooree, Nepal Mussulman, Ishore Misree, Pran Mussulman, Shoka Mussulman, Santo Mussulman, Haran Sheikh, Meajahn, Nobin Sirdar, Praimchand Sirdar, Metaie, Muddo Haree, Doorga Talee, Neemchand Ghose,

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Nuffer Mussulman, Anund Shakaree, Gopaul Mussulman, Dabee Ghose; Jagooli is this side of the river; I was struck with a brick on my chest, I heard when I was in jail that Dabee's mother sold the property to a Potdar of Santipore, I know Kishto Potdar, the plunder of this dacoity was not, that I recollect, sold to him.

About eleven years ago I committed a dacoity in the house of Ramdhun Moirah, of Gopeenathpore, Tarachand Bagdee of Neewra Doopsho was the Sirdar, Juddoo Moirah was the spy. Our men being collected, at evening of the day of the intended dacoity, we crossed the river in Orjon Chandal's boat. We then proceeded to a Peepul tree in Gowalpara. Leaving that again we went to the east *Mat* of Gopeenathpore, Tarachand brought us bamboos, *mussals*, &c. Having then performed *Kallee poojah* we started off for Ramdhun Moirah's house. One of us scaled the wall, but he found that the outer door was locked on the inside, so he came over the wall again. We then cut the door down with a *koolaree* and entered the premises. The men who were at the door fled on our entrance, Dabee Roy, Anund Shakaree, Alif Mussulman, Roota Mussulman, Tarachand Sirdar and I were the sentries. The rest went to the houses and plundered them. The villagers collected and had a skirmish with us, two or three of them were wounded and three of us were wounded also, we repulsed the villagers. A pot of rupees and ten or twelve pieces of broad cloth, together with five or six seers of ornaments were the fruit of this dacoity. Having crossed the river, the division was made on Mannicknuggur *chur*, I got cash 300 Rs. and two pairs of *poinsas*, none of the prisoners, but No 7, were in this dacoity. There were besides, Mohun Ghose, Anund Shakaree, Khoodeeram Ghose, Dabee Roy, Gopaul Ghose, Alif Sheikh, Bhoota Mussulman, Gopaul Ghose and Myhesh Ghose, Soddo Moira, Geera Talee, Sona Bagdee, Tarachand Sirdar, Brindabun Roy, Kishto Bona, Doorga Bona, Gunneish Bona, Goluck Shakaree, Juggut Ghose, Khatir Dawah, Soka Dawah, Boycaunt Dawah, Kungali Dawah, Nuffer Mussulman, Orjon Chandal. On the upper story on the roof some women and children were found sitting. We threatened to murder the children if they did not shew us where the money was. On this, one of the women took us to the store-house, near the *poojah ghur*, telling us that there were buried three pots of treasure there, we dug the foundation and got one of the pots, but the villagers threatening and it being near morning, we could not stay to dig up the other two, I was told by Sadoo Moirah beforehand that great plunder would be obtained in this house, he knew this as he was the owner's relative.

About eight or nine years ago, I committed a dacoity in the house of a Brahman of Arballeea; Kungali of Bydpoor, and the

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prisoner Kungali Haree were the Sirdars, also Mohun Dass. They too were the spies, and they brought the gang together. We left Kulna in a body and proceeding to a *peepul* tree on the Arbaleea *Mat*, we sat down. There were bamboos near, we made our weapons out of them, and having made *Kallee poojah*, we started at twelve at night for the Brahman's house. Having opened the *kirkee* door, we went inside. I, Mohun and Kungali Bagdee remained on guard. The rest went and sacked the houses. Having finished, we returned again to the same *peepul* tree, and there we divided our spoils, 200 Rs. worth of property was obtained. Some had run off with what they got, I obtained a *bajoo*, *a kuntmala*, a *tusser dootee*, and 7 Rs. cash. There were in this dacoity Kungali Sirdar, Gopaul Banea, Mohun Ghose, Nobin Sirdar, Kishto Bona, Kylas Bona, Nobin Sirdar, Oodeet Bagdee, Kungali, prisoner No. 8, Madhub Haree, prisoner No. 7, Bola Mussulman, Sagur Bagdee, Jaedaib Bagdee. In this affair we beat two of the house-chowkeedars and tied them up with their own clothes. Goopla Banea and Kitternath Buddoo, were the parties who ran off with part of the plunder, Kitternath did go on the dacoity, I forgot to name him.

About five or six years' ago, I committed a dacoity in the house of a Bunnea of Kishtodebpore, Satcowree, prisoner No. 1, Bishonath Doloy, prisoner No. 5, and Dabee Ghose were the Sirdars, prisoner No. 1, was the spy. We were a month planning this, and before we could find a good opportunity to carry it out. On the day of the *Rutjatra* we went to Umbeeca to see it, Satcowree fixed that day for it to take place. Having, at 3 o'clock P. M., seen the *Rut*, we sat ourselves down by a Beel Nowburga. At night we left that place, and having adjourned to the south *Mat* of Kishtodebpore, we made *Kallee poojah* on a spot close to the Bunnea's house. After this we proceeded to the house, some one scaled the wall and undid the door; we then entered the premises, the people of the house pelted us with bricks, we protected our heads with a *jhamp* while we cut through the door; this done, we went inside and breaking open every thing we plundered all we could find. Having finished, and after reaching the *Mat*, we divided our spoils, Radanath Ghose, one of our number had been hit by a brick; I was present at the search, but I took to my heels before the division, I carried off with me things to the value of 100 Rs. There were in this dacoity prisoners Nos. 4, 1, 2, 5. Nobin Gowallah, Bridjo Gowallah, also prisoners Nos. 6 and 7, Mohun Ghose, Praimchand Ghose, Nund Ghose, Ishore Ghose, Radhanath Ghose, Myhaish Ghose, Dabee Ghose, Shaka Mussulman, Gopal Sheikh, Bolai Ghose, Madhub Dass Kyburt, Gopeenath Dass, Sunto Mussulman, Hubboo Mussulman, Hurree Katra, Pasha Sooree, Nobin Sirdar. Witness is unable to reconcile the statement that he made before the dacoity commissioner to the effect that he was present at the

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division with what he has stated above, that he fled prior to the division with 100 Rs.

The evidence of Dabee Ghose, approver witness No. 3: I am acquainted with Nos. 1, 2, 5 and 7, I am not acquainted with the other prisoners.

I did commit the Hatgacha dacoity in Hullodhur's house.

The particulars are these. It happened seven or eight years ago, Panchcowree Dass and Golab Roy, were the Sirdars, but they neither of them actually went with us on the dacoity, Nobin Ghose used to lodge with Golab Roy, he told me of the intended expedition. Having collected about ten followers, I went with them to Golab Roy's house, which I reached at ten A. M., of the day of the dacoity. We dined there, at evening more men came to Golab Roy's house. All, joining together, started and proceeding to Saepara *Mat*, we sat down, a few men were there before us, but I was not acquainted with them, Seeru Chung brought bamboos, &c. from his house, and with them we started off again. Reaching the north plain of Hatgacha we performed *Kallee poojah*, and immediately after proceeded to Hullodhur Mundul's house. The door being open by some one who scaled the wall, we entered the premises, I, Mohun Ghose, prisoners Nos. 1, 2 and 5, Praima Satgope, were the sentries, the rest went into the inner premises. Having laid hand upon every thing in the house, we all decamped as we left; the villagers made a great shouting, but they did not come very near us. There was no division, every one carried off what he got, I got 30 Rupees, prisoner Nos. 1, 2 and 5, Seeru Chung, Madhub Dass, Jadoo Bangal, Praimchand Ghose, Mohun Ghose, Radhanath Moitro and Nobin Ghose, went on this dacoity, I don't recollect the name of any others, I was on the *ghatee*, did not go inside the house, so I can't say what took place there exactly, Golab Roy was the Sirdar and Panchcowree Dass, but they neither of them went to the dacoity. The property was deposited in Golab Roy's house, Golab Roy was called a Sirdar, because he generally found out where a dacoity would be profitable, and he used to assemble men for it, and give them lodging in his house, he was also a general receiver of stolen goods.

Eight or nine years ago, I committed a dacoity in the house of a goldsmith of Dadpara, Panchcowree Ghose and Golab Roy were the Sirdars, Nobin Ghose who was the spy, told me. Having collected eight or six of my companions, I arrived at Golab Roy's house on the day of the dacoity at 3 P. M., Seeru Chung had also brought some men to Golab Roy's house. We all left together, and going to the north *Mat* of Dadpara, we sat down, going still nearer the goldsmith's house, we performed *Kallee poojah*. We then went to the house, the premises were entered by some one scaling the wall and undoing the door; I, Bishonath Doloy No. 5, Mohun Ghose, Praimchand Ghose, Seeru Chung

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and Panchcowree Dass, were the sentries. The rest went to the houses, which they plundered. The villagers fired arrows, and Madhub Dass got hit on the legs. This upset us, and we hastened off. The villagers chased us, but did not come over near. On the back of a *nullah* we divided the property, it was above 1100 Rs. worth, I got cash 20 Rs. There was in this affair, prisoners Nos. 5, 1, 2, Madhub, Nobin Ghose, Seeru Charal and Nund Ghose, I don't recollect any others, Panchcowree Dass was the Sirdar, not Panchcowree Ghose, he lived at Kalanoy in his *Damad's* house and he also made a house for himself and he used frequently to spend the day with Golab Roy.

Nine years ago I committed a dacoity in the house of a Talee, whose name I don't know, of Nadoy, prisoners Nos. 1 and 2, arranged this dacoity and told me of it the day it was to happen, at evening, I, Nobin and others embarking on a boat at Panpara Ghat, went to the west bank, we saw Satoo Ghose and eight or ten others sitting on the *chur* adjoining the market-place of Kulna, we joined forces and proceeding by the *Mats* we stopped at a spot on the *mydan*, south-east of Nadoy. There we made *Kallee pooja*, Madhub Sirdar and Roopchand brought us bamboos, &c. from some place. Taking these we started and arrived at the door of the Talee's house, prisoner No. 1 scaled the wall, undid the door, and let us in, we all entered, I, Gobind Chuckerbutty, Madhub Sirdar, Roopchand Sirdar were the sentries. The gangs were engaged a good two *dunds* in breaking open and sacking the boxes. In the mean time the villagers had assembled, and we decamped by the same road that we came. When we came out of Nadoy and had got into Doorgapoor, which is close by, several guns were fired. On this, those of us who lived on the west side of the river, left the rest of the gang and made off, those of our party who lived the other, or east side of the river, crossed in a boat, and a division of property was made on a *chur*, about 300 Rs. worth of property was obtained, every one took his share and went home. There were in this dacoity I, prisoner No. 7, Madhub Sirdar, prisoners Nos. 1 and 2, Roopchand Sirdar, Nobin Ghose, Mohun Ghose, Praimchand Ghose, Radhanath Mahto, Nund Ghose, Rummaish Ghose, Rummaish Komar, Odee Bagdee, Noba Pode and I don't recollect any others. The Sirdars were Roopchand and prisoner No. 7, Satoo Ghose was the spy, we caught a man of the house and pushed him about, he said he was the *gooru thakoor* of the man of the house, so we let him go, we could not catch the owner, I did not recollect to say that guns had been fired at us before the dacoity commissioner.

About eight or nine years ago I committed a dacoity in the house of Dwarkinath Mookerjea of Patmohul. These are the particulars; prisoner No. 5 and Sagur Bagdee were the spies, and told us at 3 o'clock of the day of the dacoity to go at night

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to some Baubul trees on the bank of the river below Badagachee. So I, at nine or ten o'clock at night, taking ten men with me started from my house and went to the place appointed. There we saw Sagur Bagdee, he said Bishonath and others were on the other side preparing weapons, &c. they have left me here to wait your arrival and now let's be off to the other side. So we crossed the river on a boat and proceeding to the *Mat* south of Patmohul we sat down. Bishonath, Sator and others were there already, they said, we have every thing ready; at 12 o'clock rising from there we adjourned to a mangoe orchard in the village near the Dwarkanath's house, there we made *Kallee poojah* going after this to the house and pushing against the door, Toolseeram Para, the durwan cried out, who is there? We replied, your father. He abused us and opening the sudder door defied us to come in. We instantly sallied into the premises and hitting Toolseeram with our *lattees* we rendered him helpless by the blows we gave him on the head, I and prisoner No. 5, Nobin Ghose, Mohun Ghose, Nobin Sirdar, remained on sentry, the rest went to plunder which lasted four *dunds*, they then came out and we proceeded together to the river-bank. It was then nearly morning, so those who lived on the west side of the river were not searched, they took what they had. We who crossed the river went to where the Baubul trees were and there the search was made, cash and jewels and idol ornaments to the value of near 1000 Rupees was obtained, we shared it among us and each went to his own home. In this dacoity, I, prisoners Nos. 5, 1 and 2, Nobin Ghose, Odeet Bagdee, Nobin Sirdar, Praimchand Ghose, Mohun Ghose, Ishore Ghose, Shaka Mussulman, Nund Ghose, Sunto Mussulman, Rammaish Ghose and Sagur Bagdee were concerned in this dacoity, Bishonath and Sagur Bagdee were the spies and Sardars. Say if you recollect the names of any others who went on this dacoity? Gookla Mussulman, Jammea Mussulman, Taren Ghose.

About five or seven years ago I committed a dacoity in the house of a Potdar of Kishtodaspoor. Two or three days before this dacoity, prisoners Nos. 5 and 1 had told me that it was settled to come off some day. Then on the day of the *Rutjatra*, that was the day determined on. On the pretence of going to see the *Rut* we left, twos and threes at a time, and assembled at Kulna. Having witnessed the *Rut*, when it was quite evening, Satoo Ghose took and sat us down in an enclosed orchard belonging to some Baboo of Kulna. Leaving that at nine or ten at night, we adjourned to the south *Mat* of Kistodaspoor, Satoo and Praima, prisoners Nos. 1 and 2, brought bamboos, &c. and then we all went to a fallow bit of land near the house of the Potdar, and at about twelve at night we performed *Kallee poojah*. Then going to the Potdar's house we were let in by some of our gang who scaled the wall and

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undid the door. Placing sentries, we plundered the houses; I, Bishonath, prisoner No. 5, Kungla Dome, Praima, prisoner No. 2, and Mohun Ghose were the sentries. The rest went to plunder. The villagers assembling, made a row, and as we all lived near we were afraid to remain, so we took off as fast as possible, some in one direction and some in another. There was no division. I can't say what was the extent of the plunder. Those who were of my party got about 100 Rupees between them. That was divided between us in an Indigo-field on Kishtopore *chur*. There were present in this dacoity prisoners, Nos. 7, 5, 1, 2, Nobin Ghose, Madhub Ghose, Bridjo Gowallah, Mohun Ghose, Praimchand Ghose, Odeet Bagdee, Shaka Mussulman, Ishore Ghose, Nund Ghose, Myhaish Ghose, and Prishun Sooree. The Sirdars were prisoners Nos. 1 and 5, I got as my share 12 Rupees of pice and three or four cloths. Ishore got some pice and cloths. What the others got I don't recollect. In Pous, 1260, I committed a dacoity in the house of Jadoo Augooree of Soomra. When I was in service with the Roy's in Atgurrea and Oojaferr, Madhub Doss took refuge in that village in his *Damad's* house, but I don't know the man's name, I became acquainted while here with Raechurn Joogee and Brijja Boyragee. They informed me of this dacoity. On the day fixed, early, Raechurn Joogee called me to Madhub Doss's *Damad's* house, Raechurn and Brijja had given warning to their men and they had assembled in small parties at Madhub Doss's *Damad's* house at night, the start was made from there in small parties also, all collected at Koleapara Ghat on the river; crossing at that place we went and sat down on the Shoorma south *Mat*. Having made *Kallee poojah* there at twelve at night, we made for Jodoo's house, we entered it in the usual way, I and Brijo were the sentries, I don't recollect who the rest were. The plunder being over, and it took about two *dunds* as we left the premises, we were opposed by the villagers. We could not drive them off and we were obliged each to seek his own safety by running off as fast as possible in different directions. The villagers captured Brijo and another man of our gang, whose name I don't recollect. There was therefore no search nor division. Each took what he had. Brijo and the other man apprehended at the same time were sentenced to seven years. They are still in jail. There were present in this dacoity I, prisoners Nos. 1 and 2, Brijo, Raechurn Joogee, Jadab Doss, and several others whose names I don't know. In all twenty or twenty-two men were present in the dacoity; prisoner No. 1, Brijo, Raechurn, were the Sirdars and spies. The Somra dacoity was the next I committed after the Kishtodebpoor, six years about intervened between them, during which I was very ill, Somra is the last dacoity I committed.

Raechurn Joogee approver, No. 4, says, I know the prisoners

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at the bar, they committed dacoity with me. About 4 years ago, I committed a dacoity in the house of a Brahmin in Andolea Kayetpara. The particulars of that dacoity are the following.

The Ghuttuck of this dacoity was a maid-servant of the house robbed, I do not know her name, she informed Madhub, and he came to Somra, two days previous to the dacoity and told us to collect men for the occasion, and that he would join us on the day of the dacoity. We did so accordingly, and one and half *pahur* of the day remaining, Madhub Doss came with eight more persons on the day of the occurrence to the house of Nimchand, where we joined him. Starting immediately, we took some food in a Sooree's shop, at Bulagur, from whence we went in a boat to Sautagaree. There we landed, and leaving the boat in a *khal* there, we went by land to Andolea *Mat*, which we reached at about two and half *pahur*, we prepared our weapons and made *Kallee poojah*. On reaching the house to be robbed, we stationed sentries and one of us scaling the wall opened the sudder door through which we entered the premises. It was two-storied, we could not break open the stair-case door, we got up to the terrace of a one-storied house by means of a ladder, and when we attempted to undo a window through which we intended to go up to the two-storied house, the inmates began to pelt bricks at us from the terrace. The villagers assembled and fired guns, and one of the dacoits being wounded we did not venture to carry out our purpose, and ran away, when we arrived at the Sancheegore *khal*, where we had left our boat, Nimchand wanted to kill the wounded man; I would not allow him to do so, but sent him to his own house. The gang on this occasion consisted of the prisoners Satoo Gorooah, Prema Bagdee, myself, Subbo Gowalla of Satgachia, Ishore Ghose, Mudun Ghose, Madhub Dass, Shama Banetee, Khala Charral, Nimchand Nikaree; Satoo Gorooah was the Sirdar, Ram Coomar Dome, Pertab Bur, Jodoo Ghose, Madhub Karrah, Kishto Dooley, Budnah Dooley, Onoop Roy, Nobin Kourah and Poran Dooley also went, no plunder made; Nimchand lives at Somra, Balaghur is from Somra one *coss*. The name of the wounded dacoit is Ramchunder Myra of Kishnagore. The door above stairs was bricked up, which prevented our getting into the house.

About two and half years ago a dacoity was committed in the house of Womesh Bhuttacharge, Bisonath Dooley was the Sirdar, and I was the Ghuttuck, Madhub Dass and myself collected people. With some men I went to Kolapara during the day, Madhub Dass went there at night with the rest of the dacoits. We arrived at the south *Mat* of Somra at one *puhur* of night, and making *Kallee poojah* there, we went at eleven at night, and attacked the house of Womesh Bhuttacharge, undoing the

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door of the house we entered, Satoo Gorooah, Bissonath Dooley, Bhujohurry Byragee remained on sentry. After we had broken open the door, Radhamadhub Bhuttacharge was seen standing there, he cut in two our lances with the sword he had in his hand, Bissonath Dooley, fired a gun and caught hold of the Bhuttacharge, and Gopaul Ghose began to beat him. The chowkeedar of the house arrived and he also was beaten. The dacoits went inside the house, and breaking open boxes and *pittaras*, plundered all they contained, I did not remain inside the house but came and stood outside. When the dacoits came out, I asked Madhub Dass, whether much property was obtained, he answered in the affirmative, Madhub told me that the villagers were not yet assembled, and that the house must again be looted, saying this, they went in, but returned immediately. We crossed the Kolapara river, and divided the plunder, I and Bhujohurry got about 200 or 250 Rs. worth of property, I kept my share with Bhujohurry. About three or four hundred Rs. worth of property in all was plundered; three or four inmates of the house were wounded. An investigation was made but none of us were apprehended. We had left an axe in the premises which was sent to the magistrate. The gang consisted of the prisoners Gopaul Ghose, Satoo Gorooah, Prema Bagdee, Dinoo Joogee, Bissonath Dooley, Chundee Sooree and Bykunt Jur, also Radha Bagdee, Tarachand Sirdar, Nidheeram Sirdar, Joyram Sirdar, Kalodina Bagdee, Bhujohurry Byragee, Baseer Mussulman, Khando Mussulman, Rohomanee Mussulman, Hurry Madhub Bagdee, Neetai Bagdee, Degumber Ghose, Chundee Ghose, Tareence Ghose, Gooroochurn Kolat, Jooran Sewley, Shama Sewley, Chenu Haree, Rama Bornick Madhub Sewley, Gooroochurn Ghose, Monshad Mussulman, Nilmoney Ghose, Bindabun Roy, Narain Dooley, Karteck Sirdar, Moocheeram Sirdar, Torab Mundul, Nalun Joogee, Dina Haree, Saba Gowalla, Muddun Gowalla, Ishore Ghose, Muddun Mussulman, Sheetul Mussulman, Sreemunto Bagdee, Gooroochurn Haree, Kylash Lunka, Bhubun Lunka, Gooroochurn Haree of Goopteeparah, Bhoobun Kyet, Rajoo Mussulman, Modhoo Mussulman, Kootoobdee Mussulman, Muddun Gowalla, Bhoolchand Ghose and myself. Who else went I do not recollect. The prisoners Kangalee Haree and Madhub, went out also, but I forgot to mention their names before the dacoity commissioner, I did not join in the plunder because I was afraid of being recognised, that's why I came out.

About three or four years ago, I committed a dacoity in the house of a Bystom in Maluchopara, Tareenee Ghose was the Sirdar and Ghuttuck in this affair, Tareenee gave me information at Soomoodrogore, where I and Bhujohurry Byragee had gone to commit an affray on the part of Meah Sahib, Nidheeram Sirdar collected men there. On the night of the occur-

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rence of this dacoity at one and half *puhur*, we sixty or seventy persons, started from Soomoodrogore, and making *Kallee poojah* in a *Mat* near Malunchopara, we went to the house to be plundered, it had enclosure walls and was surrounded by bamboo topes, we set sentries on all sides of the house. Nidheeram Sirdar, Dino Bagdee, Radha Bagdee and Kobeer Ghose were the sentries, the rest went inside the house. The owner and his wife were sleeping in the *verandah* of the house. We caught hold of them, and took all the ornaments from the person of the woman, I entered the house and brought from it a sword and shield, and gave them to Nidheeram Sirdar We broke open the boxes and trunks in this room, and got cash and ornaments In another room on the north side we got some *tulas* and other brass utensils, while retreating we were attacked by the villagers, and some people from the factory which was situated on the south of Malunchopara In the encounter, Gopaul Ghose, Natadma and Nidheeram Sirdar dealt one of the villagers severe blows which felled him to the ground, and the villagers then ran away. There was no division, every one ran away with what he got, except we ten or twelve persons We had 200 or 250 Rupees worth of property with us, which we divided among ourselves after crossing a *khal* We reached Soomoodrogore the same night, and went to the house of the zemindar who had engaged us to fight for him The next day the darogah held an investigation The man who was beaten during our fight with the villagers and the factory people had recognised Tarun Ghose, who was apprehended by the darogah, but was subsequently released The following persons went out on this occasion, Anund Mussulman, Bhooli Dooley, Rami Bagdee, Nidheeram Sirdar, Joyram Sirdar, Kolodma, Natadma, Radha Bagdee, Baseer Mussulman, Khodo Mussulman, Rohomanee Mussulman, Hurreemadhub Bagdee, Neetai Bagdee, Moonshud Mussulman, Chunder Ghose, Degumber Ghose, Cheena Haree, Deena Haree, Jewran Sewley, Shama Sewley, the prisoner Gopaul Ghose, Madhub Sewley, Rami Bonick, Haree Kotal, Gooroochurn Ghose, Kobeer Ghose, Jadoo Ghose, Bhujohurry Byragee, Tarachand Sirdar and myself Except Gopaul Ghose, none of the prisoners at the bar were present at this dacoity The property I got in this dacoity, I kept in my own house, I have not got it now. It has been sold. I gave it to Muddun Doss's brother, Bhujohurry, to sell, he sold it for me, I do know Bissonath Chuckerbuttee of Satgacha, I have now and then sold stolen things to him, he was a general receiver, I have a recollection of selling some of the plunder of this dacoity to him.

Q. Did you commit a dacoity in the house of Rajnarain Mudduck of Soopreeahputty Gopeenuggur ?

A. Yes, I did, about two years ago, I committed the above

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dacoity, I do not recollect who was Sirdar, I was the Ghuttuck, I and Madhub Doss collected men; says afterwards that Satoo Gorooah was the Sirdar. On the evening of the dacoity we left Kulna, and when we got to Kolapara Nuddee, Prema Dooley brought us bamboos, &c., from his house. From thence we started at one and half *puhur* of night and making *Kallee poojah* on the Gopeenuggur west *Mat*, on the river-side, in a jungle under a tree, we repaired to the house of the Mudduck; sentries were stationed, Dinno Joogee entered the house by scaling the wall, he opened the door for us, all the dacoits rushed in, except Prema Dooley, Rama Bagdee, Satoo Gorooah, Madhub and Kungalee Haree and Madhub Doss *goindah* who remained at the *ghattee*, cutting open the door we plundered the house. The inmates of another house threw bricks at us, and we came out. We were searched on the Natagore *Mat*. About four or five hundred Rupees worth of property was plundered, Satoo Gorooah, Madhub Haree, and Kangalee Haree, ran away with the booty tied up in a cloth. None got a share, I only got a silver *mull* and *tabeez*, which I had concealed The gang was composed of the prisoners, Madhub Haree, Kangalee Haree, Bykunt Jur Bagdee, Dinoo Joogee, Satoo Gorooah Prema Bagdee and Chundee Sooree, also Madhub Doss *goindah*. Sreemunto Bagdee, Gooroochurn Haree, Noormahomed Mussulman, Bridjo Gowalla, Seeru Kyet, a Mussulman of Kulna whose name I do not know, he went by the name of Fukkeer; Sobba Gowalla, Mudden Gowalla, Ishore Ghose, Madden Mussulman, Seetul Mussulman, Prema Dooley. Dinno Dooley, Rama Bagdee of Nacoo Bashye, Narain Dooley, Bindabun Roy, Torab Mundul, Dinoo Haree, Nalun Joogee, Uddoyto Bagdee, Bhujjohurry Byragee, Bissonath Sirdar, whose name I forgot to mention before the dacoity commissioner, and myself. Now that I am told what I said before the dacoity commissioner, it does occur to my recollection that I got 150 Rs. of this plunder, at the division, I gave the *tabeez* and *mull* to my woman who has pawned them.

Q. Did you go out to commit a dacoity in the house of Jadoo Augooree at Somra?

A. Yes, I did, about one and half or two years ago, I committed this dacoity. I was the Ghuttuck, I now forget who was the Sirdar, Satoo Gorooah collected men from where I do not know, I with Bhujohurry, Debee Ghose, and six or seven others, reached the Koolanuddee, where all the other men had gone to assemble, Satoo Gorooah brought bamboos and gunpowder and shot We made *Kallee poojah* in a garden on the west of Somra, whence we went to the house we intended to rob. We could not break open the door, Prema Bagdee, Satoo Gorooah, Dinoo Joogee scaled the wall and opened the door, and the dacoits entered the house, Debee Ghose, Bishoo Dooley, Bhujohurry Byra-

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gee, Prema Bagdee, Prema Dooley remained at the *ghattee*, I went inside the house, the rest of the dacoits began to plunder, which being done, we all came out, Debee Ghose and Satoo Gorooah, being told by the other dacoits that there was not much property plundered, gave orders to *loot* the house till one *puhur* next morning. The dacoits re-entered the house. A woman was caught hold of, but she said she had no money, and that if we could get hold of her mother-in-law we might get some, but the mother-in-law had escaped and we could not find her any where. We found in a basket filled with cotton some ornaments, and money, which we took and then came away. In a *Mat* on the south of Somra near a tank we had a quarrel among ourselves, which went as far as blows. There was no division, every one ran away with what he got. I got 20 or 22 Rupees which Dinoo Joogee gave me when the house was being *looted*, I got no other property. In this dacoity, Bridjo Gowalla, of our gang, and the above said Fukeer were apprehended. They both confessed, and we had therefore to abscond. While so situated we had assembled with the intention of committing a dacoity in Hobeepoor, when my cousin Omesh Joogee, betrayed me and had me caught, I was then sent in by the Santipore deputy to the dacoity commissioner, I told the deputy that I did not know Bhujohurry and that he had nothing to do with me. So the deputy let him go. In this Somra dacoity there were present prisoners Nos. 1, 2, 3, 4, 5, 6, 8 and 7, Brijo Gowalla, a Fukeer of Kulna, who is now in prison under a sentence of the magistrate, Seeroo Kyet, Gooroochurn Dome, Sreemunt Bagdee, Gopaul Dolea, Praima Dolea, Deeno Dolea, Nolun Joogee, Naram Dolea, Bindrabun Roy, Torap Mundul, Shorba Gowalla, Muddun Gowalla, Ishore Ghose, Muddun Mussulman, Chotut Mussulman and Dabee Ghose. What led to the capture of Bridjo and the Fukeer? The villagers attacked us on our retreat and captured them.

No one can, I think, read the above interesting narratives, without being at once irresistably struck with a belief that the parties deposing were really eye-witnesses of the scenes they describe, and fellow-companions of the men, with whom association in the same daring adventure, has left such an indelible stamp, that, notwithstanding the great number of different men at different times associated for crime, and notwithstanding the lapse of years, the memory of each approver is perfect as to the identity of the parties who formed their associates on each instance of crime. There is not, of course, perfect agreement in regard to names, between any two approvers deposing to the same dacoities, but there is that train of similarity pervading the whole of the depositions, sufficient for assurance, that the approvers have derived their names from one and the same common stock. That stock was a large one, numbering many hundreds, composed of men living frequently many miles apart. No wonder then,

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even when the whole band were well known to each of the members, that the members of most prominent note, and those living nearest to each, are the ones best remembered by each. Thus to give a single example, it will be seen that witnesses Nos. 2 and 3, agree better as to the parties they implicate, than either Nos. 2 or 3 agree with witness No. 1, and the reason of that is, that witnesses Nos. 2 and 3, are neighbours and have generally confined their names to persons who accompanied them from their own part. This result is so natural, that were it different, there would be great reason to suspect the genuineness of the source from whence each approver derived his list of names. The lists do not tally, but they approach so near each other as to leave no reasonable doubt that the list of each approver is correct, and that where one differs from the other the difference arises, not from untruthfulness, but from obliviousness caused by lapse of time.

I would also notice the fact of the near agreement, as to the names, of the approvers Nos 1 and 4. This is to be attributed to the quite recent occurrence of the crimes they depose to. If collusion has ever occurred under the precautionary system persued by the dacoity commissioner, it is apparent that it was not possible in the case of these two witnesses. Witness No. 1, gave his confession between the 6th and the 23rd January, 1854: witness No. 4, was apprehended by the police of Sooksagore, sent to the dacoity commissioner on the 8th February, 1854, and *confessed the same day* Thus when the latter confessed the same dacoities as witness No. 1, the parties had not seen each other. The detailed confession of the latter was completed in seven days, during which, we are assured, that intercourse with the other approvers, was carefully guarded against, so that neither before, or after the apprehension of witness No. 4, could he have communicated with witness No. 1, until after such time, as intercourse could be allowed without damage. The same remarks apply, with equal force, to the approvers Nos. 2 and 3. The former had been in the custody of the dacoity commissioner from the 16th January, 1854. Debee witness No. 3, was brought in to the dacoity commissioner on the 8th November, 1854, and confessed the next day, I think then that the concurrent testimony of these men, given under circumstances which bar all possibility of collusion, is of itself sufficient evidence for the conviction of all those persons whom they unitedly name.

I do not think it of use to give an account of the police report of any of the dacoities charged against the prisoners; suffice it to say that as in all other like cases, so in these, there has been a considerable degree of misrepresentation, but it will be seen, on comparing the police investigation with the accounts of the approvers as to some of the dacoities, that the two are very similar. There is very little in any of these cases which goes to point to

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the prisoners as the perpetrators, and a great part of that little has been unfortunately nullified as evidence, by the trial and acquittal of the prisoners. In the Gram Kulna case, Ramjoy was captured in the act, he named prisoners Nos. 1, 2 and 4, in his confession, but they were all tried for the dacoity and acquitted at the sessions. This case therefore cannot be brought up against the same prisoners, nor ought they to have been charged with it. The only other case in which there is corroboration is the 2nd Somra dacoity. In this, Bridjo Gowalla and Kafulluddeen were both captured in the act, both confessed, and named prisoners Nos. 1, 2, 3 and 4. But No. 4, was tried for the offence, and acquitted at the sessions. Here again he has been improperly charged with this dacoity, but the confessions against the rest corroborate the testimony of the approvers that they were in the dacoity.

The note appended to the calendar by the dacoity commissioner shows further, that all the prisoners but No. 9, have at different times been arrested for dacoity and other heinous crimes, so that they are very likely men to have been concerned in the crimes with which they are now charged.

The defence of the prisoners is all to the same effect, viz. previous disagreement with witness No. 1, and the effect of his evil counsel upon the others. Most of them named witnesses to character and they spoke well generally on that head, but all the witnesses were men of the lowest and most ignorant rank and their testimony to character is not worth a straw.

As regards the prisoners then the case stands thus. There is evidence that prisoners Nos. 1 to 8, are men who have been known or suspected of being thieves and robbers, prisoners Nos. 1, 2 and 3, have been named as concerned in the commission of dacoity by parties captured in the act, and all the prisoners from Nos. 1 to 9, are proved, by the testimony of the approvers, to have been a gang of robbers, and to have been concerned in one or two, or more of the dacoities specified in the calendar. This evidence is to my mind as I have already stated, most trustworthy; it bears no traces of art communication; there has not been; collusion is quite out of the question, and upon such concurrent testimony, I do not scruple to say, that I consider all the prisoners at the bar to be fully convicted of having belonged to a gang of dacoits and I have to recommend, therefore, that they be transported for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The testimony of the four approvers convicts the prisoner No. 1, of being concerned in 13; the prisoner No. 2, in 11; the prisoner No. 3, in 7; the prisoner No. 4, in 5; the prisoner No. 5, in 7; the prisoner No. 6, in 5; the prisoner No. 7, in 6, and the prisoner No. 8, in 5 dacoities, and it has been given in a manner, and with circumstances, which

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render it very trustworthy. Moreover this testimony has been corroborated by the ascertained facts, that prisoners Nos. 1, 2, 3 and 4, were named by persons apprehended at the time of the dacoities which occurred in 1850 and 1854. With respect to prisoner No. 5, we find that he was apprehended with suspicious property on him in 1848, and the witnesses he has adduced in his defence, speak of him as a man of bad character, and dismissed from the office of chowkeedar. The prisoner No. 7, was arrested, charged with highway robbery in 1845, and with dacoity in 1835 and 1845. The prisoner No. 8, was arrested with prisoner No. 7, for highway robbery in 1845, and again with him for dacoity in 1849. The evidence therefore against all the above prisoners with exception to prisoner No. 6, is full and satisfactory; and convicting them of the charge on which they have been arraigned, we sentence them to transportation for life. Not satisfied with the evidence against the prisoner No. 9, and his witnesses having deposed to his character being good, we acquit him and direct his release.

We postpone passing sentence on prisoner No. 6, as neither the dacoity commissioner, nor the sessions judge have intimated the grounds on, and circumstances under, which the prisoner was arrested for dacoity, in 1848, or stated the cause of his acquittal. These points we would observe, for the future guidance of both authorities, should always be distinctly recorded by them, as important in enabling the Court correctly to weigh the fact of the arrest in corroboration of the direct evidence of the approvers.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

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Prisoners convicted of belonging to a gang of dacoits and sentenced to transportation for life on the testimony of approvers corroborated

GOVERNMENT

versus

HORISH GHOSE (No. 18,) RAMCOOMAR GHOSE (No. 19,) SEROO GHOSE (No. 20,) BODUN GHOSE (No. 21,) KHOODEE SHEIKH (No. 22,) AND SHEIKH JOREEP (No. 23.)

CRIME CHARGED.—Having belonged to a gang of dacoits, and committed the following dacoities, viz. Nos. 18, 22 and 23; in the house of Madhub Chung at Kadooa, thannah Uggrodip, zillah Nuddea, on the night of the 16th November, 1846; Nos. 18 and 21, in the houses of Gopaul Shaha, Shootar Shaha, Roghoobeer Shaha, Shobhanee Bhagteeare, and in the police faree at Polashee, thannah Borur, zillah Moorshedabad, on the night of the 30th December, 1847; Nos. 19, 20, 21, 22 and 23,

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by circumstantial evidence, and proof of bad character.

in the house of Ramcoomar Surnokar at Deopara, thannah Kotwalee, zillah Nuddea, on the night of the 13th August, 1847; Nos. 19, 20, 21, 22 and 23, in the house of Mohesh Gorye Koloo, and Jogunnath Koloo, at Notipota, thannah Mayherpur, zillah Nuddea, on the night of the 2nd February, 1848; Nos. 19, 20, 21, 22 and 23, in the house of Moulvee Lutful Hossein at Mashdanga, thannah Muntessur, zillah Burdwan, on the night of the 1st March, 1848; Nos. 19, 20, 21, 22 and 23, in the house of Neelambur Bissas at Gocoolnagur, thannah Kotwalee, zillah Nuddea, on the night of the 3rd May, 1848; Nos. 18, 19, 20, 21, 22 and 23, in the house of Lalmohun Tewaree at Hatgacha Kamaray, thannah Uggrodip, zillah Nuddea, on the night of the 5th June, 1848; Nos. 19, 20, 21, 22 and 23, in the house of Haradhun Patuck at Bissorumbha, thannah Poorbutullee, zillah Burdwan, on the night of the 14th June, 1849.

Committing Officer.—Mr. E. Jackson, late commissioner for the suppression of dacoity of Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 12th June, 1855.

Remarks by the additional sessions judge.—The prisoners are charged with having belonged to a gang of dacoits, and eight separate specific acts of dacoity are said to have been committed by their gang.

The prisoners all live within a short distance from the town of Kishenaghur. They robbed boats as well as houses, though the former description of dacoity is not laid to their charge. The Bhaugeeruttee and the Jullungee, for miles up and down the stream, witnessed many scenes of depredation committed by the gang, of which the prisoners are said to have been members.

The witnesses against them are two approvers, No. 1, Manick Ghose, and No. 2, Noan Sheikh, and the dacoities of which the prisoners are charged are the following.

1. A dacoity in the house of Madhub Chung of Kadoa, on the night of the 6th November, 1846.

2. A dacoity in the houses of Gopaul Shaha and others of Polashee, on the night of the 30th December, 1847.

3. A dacoity in the house of Ramcoomar of Deopara, on the night of the 13th August, 1847.

4. A dacoity in the house of Mohesh Gorye Koloo of Notipota, on the night of the 2nd February, 1848.

5. A dacoity in the house of Lutful Hossein of Mashdanga, on the night of the 1st March, 1848.

6. A dacoity in the house of Neelumbur Biswas of Gocoolnuger, on the night of the 3rd May, 1848.

7. A dacoity in the house of Lalmohun Tewaree of Hatgacha Kamaree, on the night of the 5th June, 1848.

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8. A dacoity in the house of Haradhun Patuck of Bissorumbha, on the night of the 14th June, 1849.

Subjoined is a brief sketch of each dacoity and what resulted from it.

In the Kadooa dacoity, the prosecutor stated that his premises were entered, he cannot say how, but suddenly he found his house full of dacoits and himself in their hands. He was burnt by them on the chest, and was otherwise roughly handled. The dacoits left with the plunder of his house, amounting to 50 Rs. worth. The prosecutor recognized one Sonatun, and the chowkeedar had reason to suspect others. Sreemunto Bagdee was one. He gave information implicating Sona Bagdee, and Sona confessed implicating Horish, Noyan, Khoodee, Zoreef and some others, also mentioned in Noyan's deposition, Noyan and Horish were committed to the sessions, but both were acquitted.

In the Polashee dacoity, five houses belonging to different owners were attacked and plundered. Among them was the police *faree*, the burkundaz of which was seized, bound and carried off by the dacoits to the other houses which they subsequently robbed. A considerable sum in money and property was carried off in this five-fold dacoity, but no trace of the real dacoits was elicited by the enquiry at the time. There is a most remarkable agreement between the description of the approver Manick, of these cases and that given by the eye-witnesses at the time.

In the Deopara dacoity there was about 350 Rs. worth of property carried off. The villagers made an attack on the dacoits and one of the former got wounded. Several men were said to have been recognized, Ramjoy was implicated by some of these, and he made a kind of confession in which, if there was any truth, he was certainly one of the dacoits. He names Bodun, prisoner No. 21, as the approver Manick has now done. No success attended the endeavours of the police to obtain evidence for the conviction of the culprits in this affair.

In the Notipota dacoity the prosecutor stated that a gang of dacoits entered his premises, but were scared off by the report of a gun fired from a neighbouring factory. No property was carried off.

The Mashdanga dacoity was a most daring affair. A marriage ceremony was, at the time, going on, and numerous persons were assembled on the premises, among the latter were several burkundazes. Nevertheless the dacoits attacked the house and plundered it. The prosecutor suspected that some one acquainted with his house must have given information to the dacoits, as they only broke into those rooms in which there was any property. Nothing was ascertained as to who the dacoits were, but a *faree* burkundaz gave information which

might have led to successful results. His information was that he saw Hullodhur and Munnohur pass his *faree* the day before, and that they went in the direction of Mashdanga. However the clue was not acted upon. It now appears that both Munnohur and Hullodur were in this dacoity, and both have since been transported in another case of river-dacoity on the boat of Loknath Shaw; two hundred goldmohurs were said to have been carried off in the Mashdanga dacoity, but the approver Manick says, and I think with truth, that the goldmohurs were in an iron chest, which they could neither break nor open.

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The Gocoolnagur affair was reported as an attempt, but the owner of the house stated afterwards that he lost 131 Rupees worth of property, and that he was burnt by the dacoits. No trace whatever was discovered of them.

In the Hatgatcha Kamaree case, the owner of the house was asleep in his *boituckhana*, was seized by the dacoits and burnt to make him show his money and his valuables. He did so accordingly and lost 2000 Rupees worth. A relative of his recognized several persons, and one of them, Kartick, confessed, but he was not believed and was accordingly released by the magistrate.

During the attack of the owner's house in the Bissorumbha affair, and in which he lost 934 Rupees worth of property, the villagers assembled and shot arrows at the dacoits, Muddoo Ghose was found afterwards with a fresh arrow wound on his leg. On his apprehension he confessed the Bissorumbha dacoity, and named Manick, the approver, Bugwan Ghose, Seroo, prisoner No. 20, Munnohur, Hullodhur, and others, whose names are also among those given by the approver Manick, in his deposition.

The figured statement given below, shows at one view in what cases the prisoners are named by the approvers as well at the trial before me, as in their confessions before the dacoity commissioner.

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Number and name of prisoner.	No. 1. Dacoity. Kandoa.	No 2 Dacoity Polasee	No 3 Dacoity Deopara	No 4. Dacoity Notipota	No 5. Dacoity. Mishdanga	No 6 Dacoity Gokulnugger	No. 7. Hitcha Kamaree. dacoity	No. 8. Dacoity. Bissorumba.	Remarks.
No. 18, Harish Ghose, .	Approvers. Nos. 2. *1	Approvers Nos 1 *1	..	.	..	..	Approvers Nos. 1 & 2 *1—2*	..	
No. 19, Ramkomar Ghose,	..	Ditto 1 *1	Approvers 1 *1	Approvers 1—2 *1—2*	Approvers. 1—2 *1—2*	Approvers 1—2 *1—2*	Ditto 1—2 *1—2*	Approvers 1—2 *1—2*	
No 20, Seeru Ghose ..	..	Ditto 1 *1	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1—2*	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1—2*	
No. 21. Bodun Ghose, ..	..	Ditto 1 *1	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1—2*	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1—2*	
No. 22, Khoodee Sheikh,	..	Ditto 1	Ditto 1 *1	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1—2*	
No 23, Sheikh Jooreen,	..	Ditto 1	Ditto 1 *1	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1 *1	Ditto 1—2 *1—2*	Ditto 1—2 *1	

* These refer to the evidence before the dacoity commissioner

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To place the evidence against the prisoners in the clearest view, to facilitate comparison between the deposition of one approver and another, and to be of use in any future commitment of members of the same gang, I think it advisable to supply a complete translation of the entire evidence taken at the trial.

The evidence of Manick Ghose approver, witness No. 1.

I was acquainted with all the prisoners, about six years ago, I committed dacoity in the house of a goldsmith of Dapara. The Sirdars were prisoners, No. 19 and Bonmally Ghose. The spy was Tareek Sheikh; at 3 P. M. of the day of the intended dacoity I had just got my cattle released from pound out of the Sheebpoor factory and was coming home, when I fell in with Bonmallee, Ramcoomar, Buddun Ghose, Saphul Mullick, and others, in Dobolea Bazar. They told me of the dacoity, and said that the place appointed for the rendezvous was the Ghat before the collector's house at Kisnogur, where they told me to go. They then went away, and I took my cattle home. After which I started with Teenu Ghose for the appointed place. I was then living at Palta. At four *dunds* of the night, I arrived at the ferry. All the other dacoits had previously crossed, and were assembled on the other side in an indigo-field. I called to them and they brought over a boat, and crossed me and Teenu to the other side. Having joined the party we all started off together, and having reached a bit of fallow scape near the house to be attacked, we got ready our bamboos and weapons, and made *Kallee poojah* At 12 o'clock at night, we appeared before the goldsmith's house. We found the entrance door open, I, Buddun Ghose, Teencouree Ghose, and Jaddoo Bagdee, were placed as sentries, and the rest went inside the premises. The villagers also having entered the premises through the *kirkee* door, opposed us. The dacoits threw down their *mussals* in the premises and came out. The villagers took the *mussals* up and came at us. There was a fight between us. One of the villagers being knocked over, they retreated, and we took that opportunity to scamper off, Ramdhun Dholee in his haste, fell into a tank, when he was at once surrounded by the villagers. We had then got on about two *russees* a head, but hearing Ramdhun Dholee appealed to Kalee Doss (the watchword on the occasion) for help, we returned to the tank to his aid. The villager, who had a *mussal* in his hand, we first knocked over, and then the whole of the villagers fled. Rescuing Ramdhun out of the water, we again made off, but the villagers were still at our heels, but they could do nothing against us, and we made good our retreat. We crossed the river below Moishgunge and then it was so near morning, that there was not time for a search and a division. Every man kept what he got. I got a bit of melted silver, which I snatched from

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one of the dacoits. There were about twenty or twenty-five men on this occasion, and among this number were prisoners Nos. 22, 23, 21, 20 and 19. Being interrogated, says, Ramcoomar Ghose accompanied me, when I went to Sheebpoor factory to release my cattle. I know the prisoners, from having often committed dacoity with them, and prior to the dacoity above described, I have committed dacoities with them. All the prisoners, but Horish Ghose, were on the Dapara dacoity. Ramcoomar went with me to Sheebpoor, as he was my associate in crime, and I asked him. I don't know any one of the name of Takoordoss Ghose: Yes, I do know such a person, he lives at Barcepara. Ramcoomar gave him some cloth to sell, I went to get the price from him, and this is how I know him, Ramcoomar was not with me when I was returning with my cattle, he was some distance behind me. As I was coming back I met Bonmallee Ghose, Saphul Mullick, Buddun Ghose and some others, whom I do not now remember. Noyan Sheik did not go on the Dapara dacoity. Besides those whom I have named above, there were, on the Dapara dacoity, Teenu Ghose, Jadoo Bagdee, Korom Sheikh, Chand Sheikh, Ramdhun Dholee, Shukoo Ghose, Nuffer Byragee Ghose, Shuroyal Mussalman, Sophul Mullick, Kistochand Ghose, Geereedhur Ghose, but I am not quite sure, and Guddadhur Ghose. Bonmallee did go on this dacoity. The watchword on the Dapara expedition was Kalee Doss, of course that is not the watchword for every occasion. The word was fixed upon after the *Kallee poojah* was over.

Six or seven years ago, I was present at a dacoity in Polassee in several houses. The spy and the Sirdar, was prisoner No. 19. He informed every one of it, Saphul told me, Teencowree Ghose and I came the day before the dacoity to Douolia bazar, we found every one had assembled in Saphul's house. It was morning when we arrived there. Leaving that, one at a time, we travelled by the road. At 12 P. M. we arrived at Horish Ghose's house in Sonadanga, I, Ramcoomar and the prisoner Horish Ghose, eat our dinner there together, and starting again together, we three arrived at the same time at evening on the north *Mat* of Polassee. There were in that place others already assembled. It had been settled that Horish Ghose, of Sonadanga was to bring a hatchet, but he did not arrive at all that night and consequently there was no dacoity. We passed the night by a fire under a tree. Early, Chuneelall Ghose was sent to call Horish Ghose, the rest of us went here and there. I, Ramcoomar and Bonmallee Ghose, went to a shop near Koolbaree factory, and there staid. Leaving that when the day was near passed, we went to the same tree, under which we had spent the previous night, Cheeneebass Ghose and Horish Ghose arrived with the hatchet. We cut bamboos out of a clump and

prepared our weapons. Quitting that place, we went to another near the houses we intended to attack, and there made *Kallee poojah*, taking up some bricks that were there, we went to the door of the house, we intended first to plunder, and deposited the bricks there. The door was closed, and some one scaled the wall and let us in. But prior to doing this, we had been to the *faree* and laying hold of the officer there, we tied his arms and took him along with us, we also plundered the *faree* of whatever we found in it. We then attacked the other houses. Cheeneebass Ghose, Teenu and I were the sentries. A woman of the house said to the dacoits, "There is nothing here; go to the centre Baree, you will find the owner asleep, and he has the money," hearing this, I went inside. The centre house was a straw one, the door was shut, calling out for the *koolhari*, Khoodie brought it, with it I cut through the door, and inside I saw a man asleep on a bed, I demanded his money, he replied he had none. Khoodee Shaik had the *koolhari* with which I cut through the door, and with it he broke open a box there was in the house. We took the ornaments from it, and beat the owner, he said, You have taken all I possessed, I have no more. There was in the box a bag of Rupees and some jewels, these we got. We then went to another house belonging to a relative of the owner, whose house we had just robbed. We took all he had in his boxes. Then we went to another man's house where we found nothing, because we were not able to break open the door of the west room. From this house we went to the house of a shoeshop We put on his shoes and left. We had tied up the four men we found in the *faree*. They had managed to run off after we had plundered the first house, and, rousing the villagers, had brought them to oppose us, but they could do nothing. We made our retreat good, and the search was made on the *Mat* east of Koolbaree factory, and the plunder divided. I got in cash and jewels 200 Rupees There was almost 14 or 1500 Rs. worth plundered. Our gang amounted to twenty or twenty-five persons, and among them were the following prisoners, Nos. 22 23, 21, 18 and 19. Whether 20 went, I cannot exactly remember. None of our party was discovered, and I heard that some person of another quarter had been apprehended and sentenced for this dacoity. The watchword was "apun." The sign by which we were to be kept together was, the day before, a Jackall cry, which Connia Ghose, knows how to imitate. There were in this dacoity above those already specified, Teenu Ghose, Bhogwan Ghose, Guddadhur Ghose, Saphul Mullick, Gora Mullick, Bydnauth Dakwallah, Horish Ghose of Sowadunga, Uchul Ghose, Cheeneebas Ghose, Bonmallee Ghose, and Kistochunder Ghose.

Five or six years ago I committed a dacoity in the house of Lalmohun Tewaree of Hatgacha Kamaree. The spy was some

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former servant of the house, but I don't know his name. The Sirdars were prisoners Nos. 18 and 19, Saphul Mullick told me of it, I and Teenu, starting together from Palta, arrived on the morning of the dacoity in Dobolia Bazar. We remained in different places, I went to Bickrampoor Bazar, and there eat, at evening we all assembled under a tree, where there is a *peer*, on the east *Mat* of Hatgacha. There we prepared our weapons, and going close to the Tewaree's house we performed *Kalee poojah*. This done, we went up to the house. In a house outside, Lalmohun Tewaree was asleep with two or three persons. We first seized the three, Lalmohun was beaten with the blunt side of a *koolhari* and with a *lattee*, after which he was secured and tied. One of us scaled the wall and opened the entrance door, we took Lalmohun inside with us, I, Joreef, and three or four persons remained on guard. The rest, having plundered the house, came out, none of the villagers showed fight, but made a noise at a distance. When we got clear, Ramcoomar was found out giving Muddoo Dome some things to conceal. I took it from him, and this led to a row between me and Ramcoomar. No division was made and every one took what he got, I got what I snatched from Muddoo Dome, and I, Horish Ghose, Teenu Ghose, and Nyan Ghose, went away together. Every one of the prisoners was in this dacoity. We beat the owner, because he would not show us where his money was, and because he struggled to get free There went on this dacoity all the prisoners, further there went Kistochunder Ghose, Koran Sheikh, Chaund Sheikh, Goomanee Sheikh, Saphul Mullick, Nyan Sheikh, Gora Mullick, Bydnauth Dakwallah, Nuffer Sadgope, Muddoo Dome, Hurryat Mussalman, Teenu Bagdee, Manick Ghose, Kurreim Mussulman, Guddadhur Ghose, Cheeneebas Ghose, Sooknauth Joogee also went, but his name was not written by the dacoity commissioner, as it was the end of my deposition, and the commissioner would not insert the name the day after. There was a quarrel between Locknauth Joogee and Kora Mussulman. To the prisoners' vakeel. It was I who beat the owner, all the inmates too were more or less beaten, but I was not inside then.

I was present six or seven years ago at a dacoity in the house of Neelumber Biswas of Gokulnugger. The Sirdar was prisoner No. 19, I do not know who the spy was, I had been in Jail charged with giving shelter to Ramcoomar, and was going home on my discharge, when I met the dacoits assembled on Sonadanga *Mat*, Buddun Ghose, No. 21 said to me that they were going to commit this dacoity, and asked me to join. Sreeram Ghose was with me, we both agreed, and joined the gang. We then all adjourned to the mouth of the *Katakhal*, and crossing on a boat at Punditpoor Ghaut, we went straight to the house. Having prepared bamboos, &c. and making *Kallee poojah* close

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by, we went up to the house, one of us scaled the wall, undid the door, and let us in. The *mussals* were lit, I and who else I cannot recollect, were left as sentries. The rest having gone inside, plundered the house. Some one came out saying that 300 Rupees had been found in *lootah*, which Chand Sheikh had run away with. We searched for him but to no purpose. We left, there was no search, every one kept what he had, Ramcoomar Sirdar gave me a pair of *mulls*, all the prisoners but Horish, were in this dacoity. There went besides Chand Sheikh Goomanee, Canaie Ghose, No. 2, Chand Sheikh, Horish Bagdee, Bissonauth Bagdee, Surryât Mussulman, Sama Bagdee, Kurreem Mussulman, Dino Kamar, Manick Ghose, and Guddadhur Ghose.

Five or six years ago, I committed a dacoity in the house of a Patuck in Bissorumbha, Munohur Ghose and Madhub Ghose were the spies, Bodun Ghose, prisoner No. 21, was the Sirdar. We went in all twenty or twenty-five men on this dacoity, and we got about four or five hundred Rupees worth of property, I got 35 Rs. worth. All the prisoners, but Horish Ghose, were in it. The villagers did show fight, but did not come very close. None of our set was discovered, but Muddoo Ghose was apprehended and confessed and got seven years' imprisonment. Besides the names already given, there were present in this dacoity, Sreemunto Ghose, Muddoo Ghose, of Poorbustall, Manick Ghose, Hullodhur Ghose, Guddadhur Ghose, Shurryat Mussulman, Muddoo Dome, a Mussulman of Poorbustall, Kurreem Mussulman, Teenu Ghose, Bhogwan Ghose and Sonnoie Sheikh. The Muddoo Ghose who was sentenced, came from Poorbustall. During the dacoity the village chowkeedar hit Muddoo Ghose with an arrow and this led to his capture.

Five or six years ago I was in a dacoity in the house of a Moulvee of Mashdanga, Bunmallee Ghose was both the spy and the Sirdar on that occasion. Twenty or twenty-eight persons were concerned in this dacoity. There was no division, every one ran away with what he had laid his hands on in the house. Mashdanga is from my house twenty *coss* off. The dacoity took place one or two days after I started from home. All the prisoners but Horish Ghose, were in this dacoity. There were further in it, Munnohur Ghose, Hullodhur Ghose, Manick Ghose, Muddoo Ghose, Kylas Myra, Hura Naga, Doorgachurn Sudgope, Sooknath Sudgope, Sreeram Biswas Sudgope, Teenu Ghose, Bhogwan Ghose, Sreemunto Ghose, Niddeeram Ghose, Kurreem Mussulman, Horish Bagdee, Chanu Bagdee, Bissonath Bagdee, Shurryat Mussulman, Muddoo Dome and Bunmallee Ghose. We had a squabble when we got on the *Mat* after the dacoity was over, because we were successful in breaking open an iron chest. The key of it was with the wife of the owner, but we were not able to get hold of her. We were not able to commit

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the dacoity on the day of our arrival, because there were seven or eight up-country men there, and a marriage ceremony was going on and many Moochee musicians were there also.

Seven years' ago I committed a dacoity in a Koolu's house at Nutteepota, Ramcoomar, prisoner No. 19, was the Sirdar, Nuffer Ghose was the spy. All the prisoners but Horish Ghose, were in this dacoity. A squabble arising on the way back, prevented the division, Ramcoomar gave me seven rupees and a *husslee.* No one was hurt or apprehended in this dacoity. The house was shown to us by a villager, whom we laid hold of, Nuffer did not go on this dacoity, Ramcoomar got some old rupees, he gave me seven rupees of them. When we arrived after the thing was over, on the *Mat*, several of our number ran away, I can't say who they were just now, I think Hurran Ghose of Sreenathpore was with us, but I can't say if he was present at the search.

Q. You said in your confession that Harran had ran off before the division, how is this?

A. I made a mistake. There were in this dacoity also Noyan Mussulman, Kistochunder Ghose, Greedhur Ghose, Surbo Ghose, Nuffer Ghose, Teenu Ghose, Madhub Ghose, Sooknath Joogee, Chand Sheikh, Goomanee Sheikh, Gorachand Mullick, Bydnath Dakwallah, Sonaee Sheikh, Kurreim Mussulman, Chanoo Bagdee, Horish Bagdee, Manic Ghose, Deane Kamar, Guddadhur Ghose and Shurryat Mussulman.

The evidence of Noyan Sheikh, approver, witness No. 2.

I knew all the prisoners before. Seven or eight years ago, I committed a dacoity in Kadoa, in the house of Madhub Chung, the spy was Wozeer Sheikh, the Sirdar was Horish Ghose, prisoner No. 18. Seventeen or eighteen of us went on this dacoity. Among the number, were prisoners Nos. 23, 22 and 18, none of the other prisoners went Two or three hundred rupees worth of property were got, I got a pair of *mulls.* Nothing else. The door was found open. The owner was struck on the head, prisoner No. 18 gave the blow, Muddoo Ghose, Chand Nuloo, Goomanee and Khoodee Sheikh, were the sentries, only Horish was the Sirdar. The place, where it was decided we were to assemble, was on the bank of a *khal*, south of the house to be attacked, and about one and half *russees* from it, we left that spot all together, and went to Madhub's house. None of our gang left the place to go any where else, Sadonparah is from Kadoa half or three quarter *coss.*

Q. You said before the dacoity commissioner that the dacoits assembled in Sadonparah, and that you and Wozeer went from that to look at the house, and that having returned from inspecting it, you then made *Kallee poojah* and afterwards went with the whole gang to commit the dacoity. Explain this? After we assembled at the *khal*, I went during the day to look at

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the house. You said before the commissioner that you were the Sirdar, in the Kandoa dacoity? I collected the men, but Horish was the Sirdar. The money we obtained was buried under ground in a cow-house. Madhub Chundal showed it to us, he was the owner of the house. We caught him and beat him, and he received a wound on his head. We found him in his house after we broke open the door, Horish Ghose seized him. You said in the foujdary that you caught him, how is this? Horish seized him and made him over to me. We got a net worth twenty or twenty-five rupees and with all the jewels besides, our plunder came to about 300 rupees. Of this, there were 200 Rs worth of jewels the rest consisted of nets and cloths, &c., Horish Ghose divided the jewels among us in Akalgachee *Mat*. Every one went away from there with what he received. You told the commissioner that the division was made at Belampore, how is this? The two places are the same. You said before the commissioner that you gave 50 Rs. to the rest, and carried off all the jewels how is it you have said quite the reverse here? After the division I paid the money and got the jewels. There were in this dacoity besides those above named, Horish Bagdee, Subul Doss, Cheeru Ghose, Chota Horish Bagdee, of Hasadanga, Chand Sheikh, Goomanee Sheikh, Ozeer Sheikh, Roopchand Sheikh and Hullodhur Ghose. Why did you not say to the dacoity commissioner that two persons of the name of Horish went with you on this dacoity? They are both dead, I did name them, whether it was recorded or not, I can't say.

Five or six years' ago, I was at a dacoity in some Tewaree's house in Hatgacha Kamaree. The Sirdar was Ramcoomar Ghose, prisoner No. 19, I can't say who the spy was. About forty of us went on this dacoity. We got 1000 Rupees of plunder, I got fifteen *gundahs* of silver and a *tabeez*, prisoners Nos 18, 22, 23, 19, 21 and 20 went on this dacoity, I omitted from inadvertence to mention prisoner No. 20, before the commissioner. The front door being unlocked by one of us scaling the wall, we all entered. The Tewaree was wounded by the blunt side of a *koolhari*. None of us were injured. We assembled in what village, I can't say, but it was by a Peertullah. The place was west of Dabuckgram and the east of Kamaree. The Tewaree's house was of mud, surrounded by a wall of the same. There was a wooden door at the entrance, inside the house, above the door way, in a hole in the wall, we found some money, it was shown to us by the owner. I can't say if any other money was found in any other place. Whether Horish got on my shoulder, or I got on his, and took the money down, I can't say, I took it off the ground as it fell. We kept the Tewaree by us all the time the plunder was going on, I wounded the Tewaree. He was by my side from first to last, he was

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under me, I gave over charge of him occasionally, whom to I can't say. The search was first commenced south of Dabuckgram. Then Ramcoomar, and I had a quarrel, and there was no further search, I was of Manick Dutt. The same night towards morning, Horish, Manick, Teenu, and I made a division. Besides those above given there were in this dacoity, Shurryat Mussulman, Guddadhur Ghose, Muddoo Dome, Kurreem Mussulman, Sullam Sheikh, Dena Kamar, Chanu Bagdee, Gereedhur Ghose, Nuffer Ghose, Shorbo Ghose, Kishtochunder Ghose, Ramdhun Ghose, Gomanee Sheikh, Chand Sheikh, Duckena Kamar and Seeru Kyburrut, I did not name Muddoo Dome before the dacoity commissioner, he is dead.

Three years' ago, I was in a dacoity in a Koolu's house of Notcepota, Ramcoomar, prisoner No. 19, and Manick were the Sirdars. Who the spy was I am not able to say. Two thousand Rupees worth of plunder was obtained, I got cash 300 Rupees and 50 or 60 Rupees worth of jewels. We were fifty men in this affair, prisoners Nos. 19, 20, 21 and 22 were with us. When we got to the south *Mat*, when the thing was over, Bydnath, Gorachand and Supul were missing, it was conjectured that they had decamped with money, so there was no division, I got what I got out at one of the houses, I did not at the time give any portion to any one. Three or four days after I divided it with Hullodhur, and on the night of the dacoity, I gave every one present a couple of Rupees, Ramcoomar and Manick obtained the clue to this dacoity. We could not carry off all the property of the house, because the villagers had collected in force. I was somewhat ill about this time. We got hold of a villager to show us the house. The spy did not know its position very well. We caught the villager in his own house, Teenu Ghose, Manick Ghose, Gullap Khotta, Horish and I went and fetched the villager. We all assembled at a Peertullah on the Nuddee bank by the village of Hanspoker, that and Dobolea are the same place, and Daputkoostea and Hanspoker are the same. The villagers and the factory people collected. We drove them off. There was no gun fired on this occasion. There were in the dacoity the following also, Chand Sheikh, Gomanee Sheikh, Sooknath Joogee, Bydnath Sheikh, Gora Mullick, Saphul Sheikh, Kurreem Sheikh, Sulleem Sheikh, Dena Kamar, Shurryat Mussulman, Guddadhur Ghose, Bishonath Bagdee, Sam Bagdee, Gereedhur Ghose, Buddun Ghose, Nuffer Ghose, Surbo Ghose, Kishtochunder Ghose, Mudden Ghose and Chana Byragee. The said Nuffer did go on this dacoity, he had a quarrel with Manick and was going, but I held him and persuaded him to accompany us.

Five or six years' ago, I committed a dacoity in the house of Moulvee Sahib of Mashdanga, Manick Ghose and Ramcoomar Ghose, prisoner No. 19, were the Sirdars, I can't say who the

spy was. There were in this affair from thirty to thirty-two persons, prisoners Nos. 19, 20, 21, 22 and 23 were among the number, I got cash 23 Rupees and a *poinsa*. There was no division, so I can't say what amount of plunder was got. State fully the particulars of this dacoity? Two or three days before the dacoity, Teenu Ghose sent to my house Ramcoomar and Manick, to give notice of this dacoity. On the day fixed, I, Joreep, prisoner No. 23, Khoodee, prisoner No. 22, went and collected in Seeru Ghose and Guddadhur Ghose's house in Tarunbosh which is east of Idrakpoor. There, a great many others were present. It was then about nine at night. We all crossed the river in a boat, and assembled in an orchard west of Idrakpoor. There Bunmallee had a shed in which we watched the indigo-fields, Manick Ghose not arriving, there was no dacoity that night, we all slept in different places, next day we got on the road and went away, but I did not go, I went and eat at Puttaree Sheikh's house in Idrakpoor, he is my uncle; at 12 P. M., I and my companions, Khoodee Sheikh, Joreep Sheikh, Chand Sheikh and others, whom I don't now remember, were together when we met Shurryat Mussulman, on the *Mat*. He said, the others are going ahead, but we fell in with nobody on the Mashdanga *Mat*, but at seven *ghurries* of night, several men arrived there, but the night advanced and there were too few men, so again there was no dacoity. We passed that night on the *Mat*. Early we parted company, I went to look at the Moulvee's house, a marriage was then going on. Having seen the house, I and Khoodee went into Paiegram Khoodee had a relation there, we sat at the door and staid there, as we were about to leave, Chand, Gomanee, Kurreem, Jullam, and Shurryat came up to us and they too sat down. We all remained there some time, at six *dunds* of day remaining we rose and at evening we arrived on Mashdanga *Mat*. Presently all the rest came up, preparing there our bamboos, &c., we went to where there was a stack of bricks near the Moulvee's house, I had then bad eyes, and I objected to go on the dacoity, Ramcoomar abused me for refusing and on this I agreed to go. As we were going, we met a dog, and every one got alarmed, I, Manick and Teenu went on ahead, and the rest followed. We got to the Moulvee's house, there were a lot of Moochees asleep at the door, but the door was open we struck the Moochees a few blows. They had a drum by them, Manick, Budden, Teenu, Cheeta Gowalla, Shurryat Mussulman, Bunmallee Ghose, Madhub Ghose, Sreemunt Ghose were the sentries, all the rest of us went inside, I went also and commenced plundering, I and five or six others got into the south house. There was a female there, we laid hold of her, she had on a silver *poinsa*. I took it from her and tied it up in my waistband; in an inner room of the same house the Moulvee's son was sleeping alone, we laid hold of him, he said "What's the use of beating me?" and

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immediately pointed out to us an iron chest. We let the boy go, and set to, to open the iron chest, but we could not do it. The iron chest got upon my foot, and at that moment some one was heard to say that a man was dying outside. On this we came out and left the chest. A great concourse of villagers had assembled, and they followed us a short distance. We crossed the river at Huldeepara and were just about to make the search, when four or five Buldeas, followed by several others passed us. No more than four or five of us were searched, the rest kept what they had. I got no more than what I have specified already. There were in this dacoity, besides those already named, Madhub Ghose, Bunmallee Ghose, Hulodhur Ghose, Guddaie Ghose, Shurryat Mussulman, Kalloo, Khoodee Mussulman, Kurreem Sheikh, Sulleem Sheikh, Dena Kamar, Chanu Bagdee, Bishonath Bagdee, Teenu Ghose, Sonaie Sheikh, Saphul Mullick, Bydnath Sheikh, Gora Mullick, Chand Sheikh, Gomanee Sheikh, Budden Ghose, prisoner No. 21, Geereedhur Ghose, Nuffer Ghose, Ramdhun Ghose, Shorbo Ghose, Teenu Byragee, Budden Ghose, Kishtochunder Ghose and Seeta Ghose.

Five or six years' ago, I committed a dacoity in a Patuck's house, Bissorumbha. The Sudars were Manick Ghose and Ramcoomar, prisoner No. 19, Madhub Ghose and Sreemunt Ghose were the spies. There was 2000 Rs worth of property obtained in this dacoity, I got cash seventeen rupees and nothing else. In this dacoity there were present prisoners Nos. 19, 20, 21, 22 and 23. In all there were about twenty-two men, Muddoo Ghose of our side was wounded, he was caught afterwards and peached against Manick and Seeru, I was told of this dacoity by Madhub Ghose After this, Manick also told me of it, I refused to join, but Madhub called me away, I went with Teenu Ghose, I met Sooknath Joogee, on my way to join the dacoits He did not go to my house, I met him on the road. We went first west, along the Sonedanga road, then we went south to Seeru Ghose's house in Tarambas. He gave us a boat to cross the river. We then went to the Idrakpore *bagan*. There we saw Ramcoomar Ghose, Shurryat Mussulman, Kurreem Sheikh, Dena Kamar, and others whom I don't recollect. The house was a brick one. We entered it from the west. There was no outer wall. A new building was being erected, I was on sentry, but I joined in the plunder as well. The Patuck was not beaten, but I gave two or three blows to a servant or some such person. By the side of the foundation of the house, some money was buried. Some one of the house told, and showed us the place, I found a *mull* and a *bala* where the search took place, and I kept them, I sold them for 10 Rupees to Deena Natta of Mohoshora. He did not pay me. There were in this dacoity, over and above those already specified, Muddoo, Madhub, Sreemunt, Hullodhur, Bunmallee,

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Teenu Ghose, Saphul Mullick, Gorachand Sheikh, Bydnath Sheikh, Chand Sheikh, Gomanee Sheikh, Shurryat Mussulman, Kurreem Sheikh, Guddadhur Ghose, Dina Kamar, Bishonath Bagdee, Cheeneebas, Buddun Ghose, Shorbo Ghose, Nuffer Ghose, Gereedhur, Kishtochunder Ghose, Connia Ghose, of Sabpoor, Seeta Gowallah, Duckena Kamar and Seeru Kyburrut.

As a further means of judging how far the memory of the approvers was to be trusted on the point of identity, I required them to give me the names of every one of the dacoits whom they recollected to have gone with them on each of the occasions deposed to. The result, as far especially as Manick is concerned, is most remarkable. The names given by him before the dacoity commissioner very nearly tally with those mentioned by him before my court. Now, considering that this witness gave a detail of forty different dacoities, and the names occurring in them amount to many more than one hundred, it is a most extraordinary feat of memory, that Manick has been able, with such near approach to perfect accuracy, to give the same names before me as he gave before the dacoity commissioner. Out of five or six score dacoits who went with him on forty different occasions, some in one, and some in others, he has been able to recollect who, of that vast number, were his companions on each occasion. After this, is it possible to withhold belief to the perfect truthfulness of this witness? No amount of instruction could have enabled him to recollect what set of men he was to name in this, and what set of men on that, dacoity. Unless the men named had actually gone with him, he could not have recollected them, and inasmuch as he has recollected them, and the supposition that tuition or chance has enabled him to do it are equally out of the question, it follows as a consequence that the evidence of Manick as to identity, is not only most trustworthy, but is, as regards the parties named in both counts, infallibly correct.

The other approver, Nyan, is far below Manick in intellect, and he has not been so careful as Manick in regard to names, still his confession and his deposition do not exhibit any greater difference than might reasonably be accounted for from the difficulty of the ordeal he was put to, I would also remark that the names mentioned by each of the approvers, in the dacoities they were both present at, bear a near correspondence to each other.

The prisoners, one and all, deny the charge, and attribute it to the enmity existing between them and the approvers.

The dacoities in which the prisoner, No. 18, Horish Ghose, is said to have been present, are the Hatgacha Kamaree dacoity, the Polassee dacoity and the Kandoa dacoity. Both approvers give evidence against him in the Hatgacha Kamaree dacoity, Manick alone gives evidence against him in the Polassee dacoity

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while Nyan's evidence charges him with the commission of Kandoa dacoity.

Prisoner, No. 19, Ramcoomar, is charged on oath of both of the approvers with the Hatgacha Kamaree, the Notipota, the Mashdanga and the Bissorumbha decoities, Manick alone deposes against him in the Polassee, the Dapara and the Gokulnugger dacoities.

Prisoner No. 20, Seeru Ghose, is named by both approvers as having been concerned with them in the Hatgacha Kamaree, the Notipota, the Mashdanga, and the Bissorumbha dacoities. Manick alone names him in the Polassee, the Dapara and the Gokulnugger dacoities.

Prisoner, No. 21, Buddun Ghose, is named in the depositions of both approvers as having joined them in the Hatgacha Kamaree, the Notipota, the Mashdanga and the Bissorumbha dacoities, Manick further states that the prisoner was concerned with him in the Polassee, the Dapara and the Gokulnugger dacoities.

Prisoner, No. 22, Khoodee Sheikh, is named by both approvers in the Hatgacha Kamaree, the Notipota, the Mashdanga and the Bissorumbha dacoities, Manick alone names him in the Polassee, the Dapara and the Gokulnugger dacoities, while Nyan's sole testimony affects him in the Kandoa dacoity.

Prisoner, No. 23, Sheik Joreef, is named by both approvers in the Hatgacha Kamaree, and the Bissorambha dacoities, Manick alone names him in the Polasee, the Dapara, the Notipota and the Gokulnugger dacoities and Nyan alone names him in the Kandoa dacoity.

Added to the direct testimony of the approvers, there is further corroboration afforded in the record of investigation made into the dacoities charged against the prisoners, and in other cases not charged, that the prisoners were concerned in these and other crimes, I shall epitomize the degree of corroboration afforded by these records in support of the charge against each prisoner.

Prisoner No. 18, Horish Ghose. He was named by a confessing prisoner in the Kandoa dacoity, and though he was acquitted on trial at the sessions and ought not therefore to have been again charged with the commission of the same offence, the fact that he was named by a party, who participated in his guilt, gives great credibility to the testimony of the approvers that the prisoner was a dacoit. Further Horish, was recognized in the Ishapore dacoity* (not specified in the calender) which occurred on the 10th January, 1848. In this case Horish Ghose's house was searched, and considerable property and cash, altogether beyond the prisoner's means, was found in his house. The property was not identified by the owner of the house in

* Record No. 8.

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the Ishapore dacoity, and the prosecutor's recognition of the prisoner being insufficient for proof, he was acquitted. Now the property found with Horish Ghose, is said by Manick to have been the plunder obtained in the Polassee dacoity, which occurred only ten days before the Ishapore dacoity, and the discovery of so much money and property at such a time in the house of one of Horish's condition, gives great corroboration to Manick's testimony that Horish was in the Polassee dacoity. It appears moreover that the prisoner was accused once of cattle stealing,* and was proved at another time to be a man of dishonest practices, which further strengthens the testimony of the approvers that Horish Ghose was a dacoit and committed dacoity with them.

* Record No. 2.

Ramcoomar Ghose, prisoner No. 19. There is nothing in the cases charged to connect this prisoner with them. But in two cases, not charged, it appears that he was implicated in the confessions of parties concerned in those crimes. The Julsooka dacoity,† which happened on the 5th September, 1848, was one of those. In it Madhub Bagdee, was wounded, seized in the act and confessed; Ramcoomar is among the names implicated by him, Madhub Bagdee was convicted and sentenced. The other case was the Malipota dacoity,‡ which occurred on the 27th July, 1849. In it Bannoo was seized in the act and named among others one Bhogwan. On the arrest of this latter person, he confessed and named Ramcoomar. He has been repeatedly apprehended for dacoity,§ and was proved by enquiry which was made during the period that the dacoities specified in the charge took place, to be a man of noted bad character.|| These facts show that the prisoner was in the habit of committing crime, and they give corroboration to the statement of the approvers that he was a dacoit and committed certain dacoities with them.

† Record No. 285.

‡ Record No. 74.

§ Records Nos. 74 and 285, Mohafaze's Kyfiat No. 511, of Records Nos. 339 and 389.

|| Record No. 70.

Seeroo Ghose, prisoner No. 20, was without doubt concerned in the Bissorumbha dacoity, having been named by a confessing prisoner in that case, Muddoo Ghose was seized with a wound in his leg, confessed and implicated the prisoner; Muddoo Ghose was convicted and sentenced. In the case of river-dacoity¶ on the boat of Looknath Shah Seeroo Ghose was named by Munnohur and Kabeer, who were apprehended with the plunder upon them. They were convicted and sentenced. Again in a river-dacoity in the boat of Cheeneebas Dutt,* this prisoner was arrested on the implication of

¶ Record No. 1280.

* Record No. 53.

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two persons who confessed that crime, but he was acquitted, as there was no evidence against him. Further the prisoner has been frequently arrested* upon information obtained against him in other cases of dacoity, and he was proved to be a noted bad character.† The evidence then of the approvers against this prisoner is corroborated by the above cases, and there is no doubt in my mind that he belonged to a gang of dacoits.

* Records Nos. 171 and 285.

† Record No. 81.

Buddun Ghose, prisoner No. 21. In the Dapara dacoity two men, Ramjoy and Godaic, were recognized, they both confessed, and implicated Buddun. In the Nolda dacoity,‡ which happened on the 5th April, 1849, the prisoner was named by Seetaram who was captured at the time of the dacoity. Again in the dacoity§ on the boat of Looknath Shah, in which Munnohur and Koobeer, were both arrested with the plunder, the prisoner was implicated in both their confessions. He was also named by Madhub Bagdee, a confessing prisoner caught in the act in the Julsooka dacoity. The prisoner has besides been arrested at different times for other dacoities, for affray, for theft and for bad character,|| thus indicating that at the time the dacoities laid to his charge in the calendar took place, the prisoner was leading a life of crime, and giving great probability to the truth of the accusation, made against him on oath of the approvers, that he was a dacoit.

‡ Record No. 126.

§ Record No 1280.

|| Records Nos. 285, 192, and 25, 211, 109, 482.

Khoodee Sheikh, prisoner No. 22. This prisoner was implicated by Sona Bagdee, in his confession of the Kandoa dacoity. He was named in the confession of Bannoo, who was seized in the act of the Malipata dacoity,¶ and in the confession of Bhogwan, who also admitted that dacoity. He was also once arrested and sentenced for burglary* in 1849, but acquitted on appeal to the sessions judge. Thus there is corroborative evidence against this prisoner that at the time of the dacoities, deposed to by the approvers, he was committing kindred crimes with men named by the approvers as composing a part of a gang of dacoits.

¶ Record No. 74.

* Record No. 108.

Joreep Sheikh, prisoner No. 23. This prisoner was named by Sona Bagdee in his confession of the Kandoa dacoity, and further than this, there seems nothing against him. Much evidence of a corroborative kind is not to be looked for in trials of this sort. Some undeniable fact, added to the direct testimony of the approvers, which, as I have already shown to be very trustworthy in the present case, ought to suffice for conviction.

I would convict all the prisoners on the charge of having be-

longed to a gang of dacoits, and sentence them to transportation for life.

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Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) In addition to the direct evidence afforded by the testimony of the approvers, we find, as detailed by the sessions judge, that the prisoners were named by confessing dacoits, who were apprehended at the time of the occurrences many years previous to the denunciation of them by the approvers; and the witnesses to good character, they have adduced in their defence at the sessions, have one and all testified against them, as being bad and suspicious characters, several times apprehended on charges of dacoity and other heinous crimes. We convict the prisoners of the crime charged, and sentence them, as recommended by the sessions judge, to transportation for life.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND GOPAL PULOEE

versus

MOHESSUR BISWAL (No. 1.) HARROO NAIK (No. 2,) DASS PATUR (No. 3,) DUNAEE BULLEAR SINGH (No. 4,) BISSUMBER CHOTRAH (No. 5.) NARAIN MAN SINGH (No. 6,) BAOOREE JENNAH (No. 7.)

Cuttack. 1855. August 3. Case of MOHESSUR BISWAL and others.

CRIME CHARGED.—1st count, wilful murder of Dusruthy Sreechundun, brother of Gopal Puloee, prosecutor; 2nd count, having aided and abetted in the above crime; 3rd count, accessaries to the above crime before and after the fact.

Committing Officer.—Mr. A. S. Annand, magistrate of Pooree.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 10th May, 1855.

The prisoners were sentenced to imprisonment for life in transportation for wilful murder.

Remarks by the sessions judge.—This murder was committed on the night intervening the 23rd and 24th March, 1855, and information of its occurrence was communicated at the Pooree police thannah at noon on the latter date by Gopal Puloee, the prosecutor, who presented a petition, setting forth that he had that morning learned from Bhaig Patur, that his brother Dasruthy Sreechundun, the deceased, who was *tehseeldar* on the part of Soobudra Dey, the widow of Dassruthy Bullear Singh of Ghur Bingorah, had as usual retired to rest at six *ghurees*, or ten P. M. the previous night in Soobudra Dey's sudder courtyard, along with Punchoo Swaie, Bidyadhur Samul, Uppertee Burral and others, and that during the night some one had killed him and thrown his body by the side of a straw stack in his

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mistress's *barree* (a garden or yard). That on hearing this, he went and saw the deceased's body, which exhibited a black mark on the throat and some scratches on the chin; and that he suspected the above-named individuals, and the villagers, who bore enmity towards him, in connection with the collection of their rents.

On the receipt of the above information, the darogah proceeded to the spot, and on the 26th March, reported that in accordance with the information and suspicion of Soobudra Dey, the sister-in-law of the deceased, he interrogated Mohessur Biswal, the prisoner No. 1, who was said to have gone to her house at midnight and to have slept or laid down by the side of deceased, and he confessed that he, in consultation with the other prisoners, went at eleven *ghurrees* of the night and inveigled the deceased from his house on the pretence of conducting him to the *bheel* or some other place, where there was a female waiting to have an interview with him, and that on his, the deceased's, accompanying him, he and the other prisoners, who were lying in wait for him in the *bheel*, attacked and killed him, by placing a bamboo across his neck, and afterwards threw his body by Soobudra Dey's straw stack. That he then apprehended the parties named by Mohessur Biswal, with the exception of Baooree Jennah, prisoner No. 7, who had proceeded to Pooree with the body of the deceased, and they in like manner one after the other confessed, and he accordingly forwarded the prisoners, Mohessur Biswal, No. 1, Harroo Naik, No. 2, Dass Patur, No. 3, Dunace Bullear Singh, No. 4, Bissumber Chotrah, No. 5, and Narain Man Singh, No. 6, to the magistrate, before whom they on the night of the 26th repeated their confessions, and on the following morning, Baooree Naik, who on being apprehended, had also confessed before the darogah, arrived at Pooree and repeated his confession before the magistrate.

The deposition of the prosecutor before this court is to the same effect as the contents of the petition presented by him to the darogah, the purport of which is above recorded.

Witnesses No. 10, Punchoo Swaie, No. 11, Bidyadhur Samul deposed that they were sleeping in Soobudra Dey's sudder court-yard along with the deceased on the night of the occurrence, and that about seven *ghurrees* or ten P. M., Mohessur Biswal came to the house, called to the deceased, and by his order Punchoo Swaie opened the door and let him in, and he went and sat on the bed of the deceased and told him to accompany him some where; whereon the deceased told him to wait a little while, and in the interval, they, deponents, fell asleep, and they did not know at what time the deceased and Mohessur Biswal left the house or court-yard, but in the morning, when Punchoo Swaie went to

draw water in the back yard, he saw the body of Dassruthy Sreechundun lying near a straw stack, and he communicated the intelligence to their neighbours.

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Pohulee Bewa, witness No. 12, known as the mother of Arteah, deposed that at four *ghurries* of the night in question, while Narain Man Singh, the prisoner No. 6, was smoking near her house, Mohessur Biswal, called him to go to him. But the statements of this witness before the foujdary and this court are contradictory, and it is to be inferred from the confessions of the prisoners Nos. 2 and 7, that she knew much more about the particulars of the case than she was disposed to communicate.

Witnesses No. 13, Oordhub Mharna, No. 14, Khuttee Mharna, No. 15, Madhub Mharna deposed that the prisoners in their presence pointed out the place where they killed the deceased, the same being about a quarter of a mile from Soobudra Dey's house and about five *beegahs* from mouzah Oorterrah, in which deponents reside.

Witnesses No. 3, Guran Pudhan, No. 4, Dudhee Biswal deposed to having seen a black mark on the deceased's throat, about ten fingers in length and one in breadth, and some slight abrasions of the skin on the right arm and back, also some blood on his clothing.

The following is the purport of the confessions of the different prisoners.

Mohessur Biswal, prisoner No. 1, in his examination, recorded before the police darogah on Sunday, the 25th March, 1855, corresponding with the 14th Cheyt, 1262, stated that on the Friday previous, the deceased, Dassruthy Sreechundun, who had been collecting rent at the cutcherry (of Soobudra Dey) told him as they were going to their respective houses at six *ghurries* or about 10 o'clock at night, to come to his house after eating his evening meal; that he accordingly went at about seven *ghurries*, and finding the door of his house bolted, called out, and was let in by Punchoo Swaie, when he went and slept on the same bed with Dassruthy Sreechundun, till about 2 A. M., when Dassruthy told him to accompany him to the village of Oorterrah, where he had some business; that they then proceeded together in the direction of Oorterrah, and on reaching the low land in the *bheel*, known by the name of Chuck Mangooleah, *this* Harroo Naik, (pointing apparently to the prisoner No. 2,) and Baooree Jennah, No. 7, and Dass Patur No. 3, who were coming from Oorterrah, met them and asked who they were, and on his replying "That it was he (Mohessur Biswal) that was going along," they recognised him and Sreechundun, and Harroo Naik abused him and ran towards him and he absconded in one direction and the deceased in another, when the said persons relinquished their pursuit after him and

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ran and apprehended Dassruthy Sreechundun and killed him, and on his returning after a short while to see what had become of Dassruthy, he saw the above prisoners carrying his body towards his house. But he, Mohessur Biswal, did not kill him, and on being further interrogated by the darogah, he stated that he did not tell the above when he was first questioned; but as the prosecutor entertained very great suspicion that he had killed the deceased, he now told what he knew and had witnessed, and after Harroo Naik, who was arrested on the above information, accused him, he, Mohessur Biswal, admitted that what Harroo Naik had stated was true, and that he was from first to last concerned in the murder, and that he had concealed or misrepresented the facts to screen himself.

The above prisoner in his confession recorded before the magistrate, on the night of the 26th March, stated that at about ten *ghurrees* or two A. M. on Friday night, the deceased called him to accompany him to Oorterrah, and that on his doing so, he seated outside Bullee Mharna's house, while he went in to visit the said Mharna's wife, and as they were returning thence, Bissumber Chotra, Dunaee Bullear Singh, Dass Batur, Baooree Jennah, Narain Mansingh, and Harroo Naik, six persons whom he, the prisoner, had before told to lie in wait for the deceased, seized the deceased and throttled him; and Harroo Naik, placed a bamboo across his throat, the two ends of which he pressed down with his hands and feet, and thereby killed him. After which they all took his body and placed it in Soobudra Dey's *barree* and went thence to their respective houses. He further stated that he was the previous day apprehended by the police darogah, when in attendance before him, on the suspicion of Punchoo Swaie, and that he of his own free will confessed. Also that they killed the deceased, because he was in the habit of intriguing with the villagers' wives.

Harroo Naik, prisoner No. 2, stated in his confession before the police darogah on the 25th April.

That in consequence of Dassruthy Sreechundun's intriguing with the wives of the villagers, about twenty days previously, Mohessur Biswal, Dass Patur, Baoree Jenna, Narain Mansing, Dunace Bullear Singh and Bissumber Chotra, consulted together at the door of Mungoolee Santra and arranged to kill him whenever they should learn that he had gone to any one's house. That he, the prisoner, was passing by when he heard this, and last Friday night, Mohessur Biswal called him and the other prisoners to the house of "Artcahmah (witness No. 12,) and told them that Dassruthy Sreechundun, was going that night to visit Bullee Mharna's daughter at Oorterrah, and he, Mohessur Biswal, was to accompany him, and he told them to go on ahead and sit in the *bheel*, and when he and Dassruthy Sreechundun were approaching he would cough, and they on hearing

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the signal were to come and kill him. That they did as they were told, and as the deceased and Mohessur were returning from Oorterrah, they, on hearing the latter cough, all ran up to the deceased and threw him down on the ground, when Dass Patur, placed a bamboo across his neck and stood on it, while Dunaee Bullear Singh stood on his stomach, and the prisoner and others held his hands and feet and when he was dead they took his body and threw it by the straw stack of Soobudra Bewa, whence they went home. He further stated that Mohessur Biswal, having given up the names of Dass Patur, Baoree Jenna, and himself, he on being questioned had made the above confession of his own free will, and in answer to a question put to him by the darogah, he said that Dass Patur took the stick, which he placed across the neck of the deceased, to his own house, and that another stick, which Mohessur Biswal brought with him from Soobudra's cutcherry, was replaced there by Narain Mansingh.

The confession made by the above prisoner before the magistrate, on the night of the 26th March, is exactly to the same effect as the above, excepting that he said that the stick which Dass Patur laid across the deceased's neck, was the one brought by Mohessur from Soobudra's cutcherry and replaced there by Narain Mansingh.

Dass Patur, prisoner No. 3, in his confession recorded before the police, on the 25th March, stated that on the previous Friday, at ten *ghurrees* of the night, the other six prisoners came to his house and called him up; that on his going out of his house Narain Mansingh, first told him to accompany him to Oorterrah, and on his asking why they were going there at that hour of the night, they all replied that they were going to the buffalo pen to get milk; that he then borrowed a bamboo from Mohessur Biswal and went with the others and sat at the *ghoiree* or low land in the Oorterrah *bheel*, at which time they saw Mohessur Biswal and the deceased, Dassruthy Sreechundun, go towards Oorterrah; that Harroo Naik, Dunaee Bullear Singh, Bissumber Chotra, and Baoree Jenna, followed them to see where they went, and that he, deponent, with Narain Mansingh, remained where they were; but as the others delayed their return, they proceeded in search of them and saw them kill the deceased at the Manjooteah *bheel* as he was returning with Mohessur Biswal, and they all took the body and threw it in Soobadra's *barree* in order that they might not be suspected, that he was not aware whether there had been any previous consultation to kill the deceased, nor did the other prisoners tell him what they were going to do, when he accompanied them to the *bheel;* that they killed the deceased because he intrigued with respectable females, and on being informed by the darogah that the other prisoners stated that he placed a bamboo

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across the deceased's throat and asked how it happened that he said nothing about it, he replied that what the other prisoners had stated was true, that he took a bamboo from Mohessur Biswal, and placed it across the deceased's throat and sat on it; and that the bamboo produced from the cutcherry was the identical bamboo.

The confession of the above prisoner recorded before the magistrate, on the night of the 25th March, fully corroborates the above statement.

Dunaee Bullear Singh, prisoner No. 4, in his confession, taken on the 25th March, before the police darogah, stated that about a month previous, Mohessur Biswal called him, and the other prisoners together, and told them, Dassruthy Sreechundun was always intriguing with respectable females, and that he had resolved to kill him, and he made them make oath that they would assist him; that about seven days since, Mohessur Biswal, Bissumber Chotra, and Harroo Naik, came to his house and called him to accompany them to kill the deceased, and on his asking where he was to be killed, Mohessur Biswal replied, that he was going to take him to a *Burhae's* or *Mharna's** female, and told them to go ahead and he in wait for him; that on hearing this, he, deponent, went and sat in the Manjooteah bheel, and one *ghurree* afterwards, Dassruthy, accompanied by Mohessur Biswal, passed, and went in the direction of Oorterrah, and on their return, they and Mohessur Biswal, attacked him and threw him down, when Dass Patur, placed a bamboo across his throat and sat on it, and he then and there died. After which they agreed that if they left the body there it would get them into trouble, and they resolved to throw it into Soobudra Bewa's *barree*, so that suspicion might rest on her, and they accordingly did so. He further stated that on Mohessur Biswal's naming him and others, he, on being questioned, made the above confession voluntarily, and he likewise admitted that he himself stood on the deceased's stomach, while Dass Patur, placed the bamboo across his throat.

* Burhae and Mharna are synonymous terms and signify a carpenter.

The above statement is fully corroborated by the confession made by this prisoner before the magistrate on the 26th March.

Bissumber Chotra, prisoner No. 5, in his confession recorded before the police, on the 25th March, stated that about six *ghurrees* of the night of Friday last, Mohessur Biswal came to his house and called him, saying that he was going to Oorterrah; and on his asking why, he replied that Dassruthy Sreechundun dishonored all the respectable females, and he was going to take him to Oorterrah on pretence of conducting him to a woman of the *burhae* class at that place; that on his telling him this, he,

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deponent, and the other prisoners, went and sat in the Manjooteah bheel, till about ten *ghurrees* of the night, when Mohessur Biswal came with Dassruthy from the direction of Oorterrah, and he and the other prisoners went up to them, when Harroo Naik, threw him down and Dass Patur, first stood with his feet on his neck, and then got off and placed a bamboo across his neck and sat on it, while Dunaee Bullear Singh, stood on his stomach, and he, deponent, held his right hand, and the others his head and feet and he died. After which they took his body and placed it in Soobudra Bewa's *barree*, in order to cast suspicion on her, and they then went to their respective houses.

The confession of this prisoner, recorded before the magistrate on the night of the 26th March, is also exactly to the same effect as the above; the fact of Dunaee Bullear Singh, having stood on the deceased's stomach being alone omitted.

Narain Mansingh, prisoner No. 6, in his confession, made before the police, on the 25th March, stated that about a month since, Mohessur Biswal told him that Dassruthy, Sreechundun, was in the habit of dishonoring respectable females, and that he intended to kill him, and on Friday last, the said Mohessur Biswal said he was going to intrigue with Bullee Mharna's daughter at Oorterrah, and told him and the other prisoners to waylay him on the road, and they would all kill him; that he and the other prisoners then went and sat at the Manjooteah Bheel, and about ten *ghurrees* of the night, as Dassruthy Sreechundun was returning from Oorterrah in company with Mohessur Biswal, the other prisoners seized him, threw him down, and sat upon him and killed him, that he, deponent, who was sitting twenty *haths* distant, then went up, and seeing that he was dead, asked Mohessur Biswal what was to be done with the body, and he said they would throw it in Soobudra's *barree;* that as they were carrying the body to the *barree*, he, deponent, had a call of nature and was coming away from the rest, when Mohessur Biswal gave him a bamboo, which he said he had brought away from Soobudra Bewa's cutcherry, and told him to replace it there and he did so. But he did not kill the deceased, and he told no one about Mohessur Biswal's consulting to kill the deceased, because he was a party to the consultation. He further stated that he and Mohessur Biswal only consulted together.

The above prisoner, in his confession recorded before the magistrate, on the night of the 26th March, stated in addition to the above, that when the deceased was seized as he was returning from Oorterrah in company with Mohessur Biswal, he, deponent, told Dass Patur and Baooree Jennah, who were sitting by him, to go and assist, and they left him and joined with Mohessur and the others in killing the deceased.

Baooree Jennah, prisoner No. 7, in his confession before the police, on the 26th March, stated that on Friday night, at about

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seven *ghurrees*, he was sleeping in his house when Mohessur Biswal called him up and took him with Harroo Naik, Dass Patur, Dunaee Bullear Singh, Narain Mansingh and Bissumber Chotra, to Arteahmah's *angun* or yard, and told them that he was going to take Dassruthy Sreechundun to a *burhae's* house at Oorterrah, and that on his return thence, they would kill him; that with this object, at his telling, they went and sat in the Manjooteah Bheel, and about ten *ghurrees* of the night, Mohessur and Dassruthy Sreechundun went towards Oorterrah, and Harroo Naik, Dunaee Bullear Singh and Bissumber Chotra, went after them to watch them, and remained near the village; and as they were returning, the said three prisoners, who followed behind them, seized Dassruthy and threw him down and mounted on the top of him, when he, deponent, and Narain Mansingh told Dass Patur, who was sitting with them at a short distance from the spot, to go and assist; and he got up, threw down his *chuddur*, and went up to Dassruthy Sreechundun and first stood on his neck, and then got off and placed a bamboo, which he got from Mohessur Biswal, across his neck and sat upon it, while Dunaee Bullear Singh, put his foot on his stomach, and the other prisoners held his hands and feet, and he died. After which he, deponent, and Narain Mansingh, who were sitting twenty *haths* distant, went up and assisted in carrying his body to Soobudra Bewa's *barree*, where Mohessur Biswal gave the bamboo, which was placed across the deceased's neck, to Narain Mansingh and he took it to Soobudra's cutcherry, and they all went to their respective houses.

The confession made by the above prisoner before the magistrate, on the 27th March, is on the main points the same as the above, but he omitted to mention the fact of his and the other prisoners having assembled in the house of Arteahmah, on the night of the occurrence, or that he himself told Dass Patur, to go and assist the others, and he stated that Harroo Naik placed the bamboo across the deceased's neck, and that Harroo Naik and Dass Patur sat at each end of it.

Witnesses No. 5, Muddoosoodun Santrah, No. 6, Madhoo Mhaintee, No. 7, Chytun Jennah deposed that they were present at the time the mofussil confessions of the above prisoners were recorded, and that they were voluntarily made one after the other, on their being severally questioned on the grounds of the statement of Mohessur Biswal, who, in the first instance, was apprehended on the information of witnesses Nos. 10 and 11. They further deposed that Narain Mansingh, prisoner No. 6, produced the bamboo, which is said to have been placed across the deceased's throat, from Soobudra Bewa's cutcherry.

Witnesses No. 8, Nittranund Mhaintee, No. 9, Arunt Bundhoo Putnaik deposed that the confessions recorded before the magistrate by the several prisoners were voluntarily made. But

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there was some irregularity in the recording of these confessions, as will be seen from the correspondence below* and herewith forwarded The magistrate, owing probably to the late hour, viz,

* From the sessions judge of Cuttack to the magistrate of Pooree, No. 56, dated 25th April, 1855

I request that you will forward to this court, with as little delay as possible, the nazir of your court also Gieedhary Lal and Radhasham mohurrir for the purpose of giving their depositions in the case noted in the margin *

* Gopal Puloee and Government versus Mohessur Biswal and six others—charge murder

I likewise request that you will summon before you Bhugwan Pudma Singh, the brother-in law of Mussumut Subudra Bewa, in whose granary the dead body of Dasruthy Seechundun was found, and ascertain whether the said Bhugwan Pudma Singh labors under any infirmity of mind or body, and if no infirmity exists to prevent his appearance before this court, I request that you will send him also to this court, but separately from the *amlah*

Lastly, I request you will be so good as to state whether the answer of more than one prisoner was recorded before or near you at one time, or whether each prisoner's examination was separately taken down in writing from beginning to end in your immediate presence, and where at the time the several prisoners were examined (whether by one or two at a time) the other prisoners were seated ?

There being discrepancies between the depositions of the witnesses, who attested the confessions render the above explanation necessary, to enable me to judge as to the trustworthiness or otherwise of the confessions

From the magistrate of Pooree to the sessions judge of Cuttack, No 73, dated 28th April 1855

I have the honor to acknowledge the receipt of your letter, No 56, of the 26th instant, and to state in reply that I have forwarded to your court my Nazir Girdharee Lall, and Radha Sham, mohurrir for the purpose of giving their depositions before you in the case of Gopal Puloee and Government versus Mohessur Biswal and others

As directed in the 2d paragraph of your letter, under acknowledgment, I have had before me Bhugwan Pudma Singh, the brother-in law of the widow Mussumut Subudra, he looks like an idiot and neither answers questions put to him quite incoherently nor at all, and a connection of his who came in with him, says, that he is a simpleton and unfit for business of any kind Under these circumstances, I have not thought proper to forward him to your court

In reply to the 3d paragraph, I beg to state that the confessions of two prisoners were recorded before me at the same time by two mohurrirs, each, with the witnesses, sitting not more than four or five feet distant from me. After all the confessions had been taken, they were read one at a time, and the prisoners examined separately, when their confessions were attested by myself and the subscribing witnesses The reading and examination could not, I should say, be heard by any other of the defendants than the one under examination, as they were seated together at the further end of the room. Every one of the confessions was taken down in my house, as six of the defendants came in at night, and I considered it necessary to lose no time in recording their replies, knowing well that if they were not taken at once, they would be instructed to deny all knowledge of the crime and would do so. The confession of the remaining defendant was also taken in my house as he was brought in, in the morning before office hours, for

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between 9 and 10 P. M. at which the prisoners were taken before him, having allowed two confessions to be taken at the same time by separate mohurrirs, who read them over to him, after they were completed, and to remedy as far as possible this defect in the magistrate's proceedings, the mohurrirs who wrote the confessions, as well as the nazir of the magistrate's court, who caused the attendance of the prisoners before the magistrate, and was present during their examination, were summoned and their evidence taken by this court; and they deposed that the confessions were recorded as dictated by the prisoners, and that Mudhoo Mainty, witness No. 6, who is the gomastah of Soobudra Bewa, was not present as alleged by the prisoners, when the said confessions were made and recorded.

The prisoners all pleaded *not guilty* before this court, and as Nos. 1 to 6, generally, made the same indefinite, incredible defence, it appears necessary to give a general outline only of it in this place.

They alleged that on the arrival of the darogah at the village, he went to the house of Soobudra Bewa, where the deceased died or was killed, and there remained the night consulting Soobudra Bewa, and her gomastah, Mudhoo Mhainty, witness No. 6, and in the morning summoned them and told them to state the deceased died of cholera, and he would report to that effect to the magistrate. That to this they replied, that the disease in question was not prevalent at that time in the village or its neighbourhood, and they could not assert such a thing, and the darogah dismissed them to their houses, and returned

the same reason. The whole of the confessions were taken in my immediate presence and written a few feet off, where I was sitting, and made with the most perfect freedom and good will as far as I could ascertain.

From the sessions judge of Cuttack to the magistrate of Pooree, No. 61, dated 3d May, 1855.

I have the honor to request that you will immediately, on the receipt of this letter, summon the witnesses named in the accompanying vernacular proceeding, through the darogah of thannah Gope as desired by the parties in whose behalf they are summoned. I also request that you will depute two trustworthy chaprassies to prevent, if possible, the darogah of Pooree having any communication with the said witnesses, who should be forwarded direct from their village to this court, in charge of the said chaprassies, without going near Pooree.

I further request, as there appears no impediment to Bhugwan Pudma Singh's appearing before this court, that you will direct him to attend as soon as possible.

From the magistrate of Pooree to the sessions judge of Cuttack, No. 75, dated 5th May, 1855.

I have the honor to acknowledge the receipt of your letter, No. 61, of the 3d instant, and to state in reply that I have directed the darogah of Gope thannah to forward to you direct, under charge of two chaprassies from this court, all the witnesses called for in the vernacular proceeding, which accompanied your letter above adverted to.

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himself to Soobudra Bewa's house, where having further consulted with Soobudra, he re-assembled the villagers and called all the prisoners, with the exception of Baooree Jennah, who had accompanied the body of the deceased to Pooree, into Soobudra's house, when he again asked them how Dasruthy Sreechundun was killed, and on their replying that he died in Soobudra's house, and that they did not know how, the darogah shut the door of the house and beat and maltreated them, and after causing something to be written in consultation with Mudhoo Mainty, confined them in stocks in Soobudra's cutcherry, where he detained them till the evening and then forwarded them to Pooree, and on their arrival at that place at 9 P. M., the burkundazes in charge of them took them to the thannah, again questioned them regarding Dassruthy Sreechundun's death, and on their denying all knowledge of the matter, put them in the stocks and beat them, and at about six *ghurries* or 10 P. M., took them to the house of the nazir, where they were followed by the above-named gomastah, Mudhoo Mainty, and the nazir again took them to the house of the magistrate, where the nazir and Mudhoo Mainty sat with the mofussil papers before them, and the mohurrirs wrote their examinations from those papers, but what they wrote, they, the prisoners, did not know.

Baooree Jennah, the prisoner No. 7, who was forwarded to the magistrate the day after the other prisoners, adopted the same line of defence as the above, and asserted that he denied committing the murder, both before the police and the magistrate; he also stated that the mohurrir, who wrote his examination before the latter authority, copied something from the mofussil papers.

The prisoners did not, in the first instance, cite any witnesses in defence, but after the nazir and mohurrirs of the magistrate's court were examined, they requested that a number of the residents of their own and the neighbouring villages might be summoned, and this was accordingly done, but none of them stated any thing in their favor, and one witness only, Goburdhun Santrar, who is related to or connected with the prisoners, Nos. 1 and 2, said he heard that they were beat. The testimony of the others tended to prove that the prisoners made voluntary confessions before the police darogah.

The law officer, distrusting the confessions of the prisoners, for the reasons stated in his *futwa*, which is filed with the record, declares the whole of them entitled to their acquittal, but from this verdict I dissent.

It is true that certain facts, which I shall proceed to notice in the first place, cast suspicion on the principal and only evidence saving that of the confessions of the prisoners, and otherwise involved the case in doubt and obscurity, but I do not,

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after mature deliberation, think that they by any means afford sufficient grounds for rejecting the said confessions and evidence.

The first ground of suspicion was created by the fact of Punchoo Swaie and Bidyadhur Biswal, witnesses Nos 10 and 11, who were sleeping with the deceased in the courtyard of Soobudra Bewa, on the night he was murdered, and who were themselves in the first instance suspected by Gopal Paloorec, the brother of the deceased, of having been concerned in the murder, having been represented in the darogah's report of the 24th March, to have denied all knowledge of the manner in which the deceased met his death. For this naturally cast distrust on their subsequent statements, because if, as now appears to be the case, the deceased was called away from Soobudra's house in the middle of the night by Mohessur Biswal, and the said witnesses were fully cognizant of the fact, nothing was more easy for them than to communicate the fact to the darogah; indeed it was only natural to suppose that they would have done so at once, to exculpate themselves. If they did not do so, their concealing or denying the fact can only be attributed to fear, or may be they were privy to the murder, if the real cause of it has been correctly revealed by the confessing prisoners, and this cannot, I think, vitiate their testimony entirely.

Secondly.—The darogah made it appear in his report of the 26th March, that he had heard nothing about Mohessur Biswal's having gone to the house of Soobudra Bewa and slept or laid down on the same bed with the deceased, until he recorded Soobudra's deposition on the 25th idem, though it would appear from the questions asked Mohessur Biswal towards the close of his examination, that he had been previously interrogated by the darogah and that he had denied all knowledge of the murder; for he therein stated "that he did not at first tell what he knew about the murder, but as the prosecutor so strongly suspected him, he had now done so." Hence it is to be inferred that the darogah had received some previous information against Mohessur Biswal, and his endeavouring to make it appear otherwise, or at all events, witholding his information, tended to lessen the confidence that would, under other circumstances, have been placed in his proceedings. Punchoo Swaie and Bidyadhur Biswal stated before the court, that they informed the villagers before the arrival of the darogah, that Mohessur Biswal called the deceased from his house on the night of his murder, and the answer of Mohessur Biswal above cited, tends to corroborate their statements.

Thirdly.—The fact of the body of the deceased having been found in the *barree* or yard of Soobudra Bewa, which is immediately contiguous to her dwelling-house and surrounded by a wall, suggested the possibility and even the probability of his

having been murdered for intriguing with the said Soobudra, whose age is said to be more than three or four and twenty years, setting aside the asseverations of the prisoners that their confessions were extorted. But nothing transpired during the investigation of the case, to support the surmise.

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Lastly.—The irregularity which took place in recording the confessions of the prisoners before the magistrate, the particulars of which will be learned from the correspondence previously referred to, to a certain extent favored the objections of the prisoners, and involved the case in perplexity.

But notwithstanding the above facts, after a most careful consideration of all the circumstances attending the case, I am of opinion that the confessions are genuine, and that whatever may have been their motives for doing so, the prisoners are the parties who killed the deceased.

First.—Because the statements of prisoners to the effect they were beat is not borne out by any credible evidence.

Secondly.—Because it is evident that all the prisoners with the exception of Baooree Jennah, No. 7, were summoned before the darogah at about noon, on the 25th March, along with the rest of the villagers, and on the darogah's re-questioning Mohessur Biswal in the presence of the assembled villagers, he, as stated by himself, in consequence of the strong suspicion entertained against him by the prosecutor, in the first place made a partial confession, accusing Harroo Naik, Baooree Jennah and Dass Patur, with having killed Dassruthy Sreechundun, and after Harroo Naik, who was present, had been called up and examined, and his examination had disclosed the whole particulars of the murder, accusing Mohessur Biswal and the other prisoners as his accomplices, the said Mohessur Biswal and all the other prisoners, with the exception of Baooree Jennah, who had accompanied the body of the deceased to Pooree, one after the other made full confessions before there was time for the darogah or any one else to tutor them, and on the return of Baooree Naik from Pooree, he in like manner confessed.

Thirdly.—Because the confessions made by the prisoners before the magistrate, on the night of the 26th March, though they were irregularly recorded two at one time, and none of them were read over to the magistrate until the whole six were completed, not only corroborate their mofussil confessions, but contain (some of them) particulars not stated in the mofussil confessions; and this proves not only that they were not copied from the mofussil papers, as alleged by the prisoners, but that they were genuine and voluntarily made, as deposed to by the witnesses, Nos. 8 and 9, and likewise by the mohurrirs who wrote them. The style or order of the different mofussil confessions, also tends to disprove the prisoner's assertion that they were tutored.

Lastly.—The assertion of the prisoners, Nos. 1 to 6, that

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Muddoo Mhainty, witness No. 6, the gomashtah of Soobudra Bewah accompanied them to Pooree and was present when their confessions were recorded before the magistrate, is refuted by the evidence of the mohurrirs, who wrote the said confessions, and that of the nazir, who caused the attendance of the prisoners before the magistrate.

Under the above circumstances, I convict the prisoners, Mohessur Biswal, No. 1, Harroo Naik, No. 2, Dass Patur, No. 3, Dunaee Bullear Singh, No. 4, Bissumber Chotra, No, 5, Narain Mansingh, No. 6, and Baoree Jenna, No. 7, of the wilful murder of Dassruthy Sreechundun, and recommend that they each be sentenced to imprisonment for life in transportation beyond sea. I abstain from recommending any of them to be sentenced capitally, because there were no eye-witnesses to the murder, but should the superior Court consider the details of the different confessions sufficient to justify such a sentence being passed against any of the prisoners, as combinations to murder, such as is exhibited in the present case, are not unfrequent in this part of the country, I think it might have a beneficial effect if Mohessur Biswal, the instigator of the murder and Dass Patur, the most prominent of his accomplices, were so sentenced.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes, and B. J. Colvin.) We concur with the sessions judge in the view he has taken of the genuineness of the confessions. The prisoners had ample opportunity to bring it to the notice of the magistrate, had they been subjected to any maltreatment, besides they were in the hands of the police, too short a time to render it probable that they underwent any. The sessions judge called for evidence to the truth of their allegation; but it was not in any away established. We therefore convict the prisoners of wilful murder, and sentence them to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND TARACHURN MUNDUL

versus

KHETOO BAGDEE CHOWKEEDAR (No. 4,) KYLASHNATH SIRCAR (No. 5,) RAMJOY BAGDEE DAGGEE (No. 6 APPELLANT,) RAMPERSAUD MUZOOMDAR (No. 7,) JANKINATH SIRCAR (No. 8.)

Beerbhoom.

1855.

August 3.

Case of RAMJOY BAGDEE DUGGEE.

Appeal rejected.

CRIME CHARGED.—1st count, Nos. 4, 5 and 6, dacoity attended with assault of Tarachurn Mundul, and plunder of property valued at Rs. 724-4; 2nd count, knowingly receiving and retaining property acquired by committing the above dacoity; 3rd count, Nos. 7 and 8, accessaries before and after the fact of the above dacoity; 4th count, privity to the above dacoity.

CRIME ESTABLISHED.—1st count, Nos. 4 and 5, dacoity attended with assault of Tarachurn Mundul, and plunder of property valued at Rs. 724-4; 2nd count, Nos. 4, 5 and 6, knowingly receiving and retaining property acquired by committing the above dacoity; 3rd count, No. 7, accessary before and after the fact of the above dacoity; 4th count, No. 8, privity to the above dacoity.

Committing Officer.—Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 4th May, 1855.

Remarks by the sessions judge.—This case was tried by me under Act XXIV. of 1843.

On the night of the 9th Cheyte, 1261, or 21st March last, the prosecutor was awoke from his slumbers by his house being attacked by a gang of dacoits, who forced in the outer door, and then bursting open that of the room in which the prosecutor had been sleeping, proceeded to bind him to a post and demand the delivery of his money and property. The prosecutor in consequence of maltreatment received, and for fear of his life, pointed out where a *lotah* containing some 200 Rs. were buried in the corner of the room, which, together with Rs. 175 cash and other articles found in the chest in the room which they broke open, the dacoits took and decamped with, the total value of the property lost, amounting to Rs. 724-4. The facts of the dacoity having been committed, the finding of the prosecutor bound with a cloth and in a state of partial insensibility, were duly proved by the evidence of the witnesses for the prosecution.

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Before the police and magistrate, the prisoners, Khetoo Bagdee Chowkeedar, No. 4, and Kylashnath Sircar, No. 5, made full confessions of their guilt, which were duly attested by the subscribing witnesses.

From the above confessions, it appeared that the dacoity had been so previously planned and arranged, that the dacoits should assemble in the afternoon of the day on which it was committed, at the house of the prisoners Rampersaud Muzoomdar, Kylashnath Sircar and Jankinath Sircar, the two latter being brothers and nephews of the former, and all three residing in the same premises; several witnesses also deposed to their having seen some people collected at the prisoners' house, but on their repairing thither after the dacoity, they had all decamped, excepting the prisoners Rampersaud Muzoomdar and Jankinath Sircar. Suspicion was therefore raised against the three above named prisoners, and on the darogah proceeding to the spot, he met a woman, named Mungula Bagdin with a *gilaph*, which she apparently was desirous of concealing, and on questioning her, she disclosed the fact of her relatives, Khetoo Bagdee and Ramjoy Bagdee, Nos. 4 and 6, having been concerned in the dacoity. Those parties were accordingly apprehended, prisoner No. 4, immediately confessed his guilt and implicated the rest of the prisoners, but more particularly Kylashnath Sircar, No. 5, and Ramjoy Bagdee, No. 6; the prisoner No. 5, was thereon arrested and also confessed his participation in the dacoity, and in consequence of his implicating the prisoners Rampersaud Muzoomdar, No. 7, and Jankinath Sircar, No. 8, they were also taken into custody. On the houses of the prisoner being searched, a brass *battee* was recovered from that of prisoner No. 4, a *purse and sarree* were found in that of prisoner No. 6, and the prisoner No. 5, gave up five rupees, which he confessed to have received on the night of the dacoity as a portion of his share of the plunder, the property found in the houses of the prisoners Nos. 4 and 6, was duly identified as belonging to the prosecutor.

Before this court, all the prisoners pleaded *not guilty.*

When called upon for his defence, Khetoo Bagdee, No. 4, declared he had nothing to urge, and refused to examine the witnesses cited by him. On his confessions being read over to him, he acknowledged both to have been recorded by him of his own accord.

Kylashnath Sircar, No. 5, denied both his confessions, urging that he was forced to make the first, and of the second he had no recollection, and cited several witnesses to prove his absence from home from the afternoon of the 9th to the morning of the 11th Chyte, but on examination they all denied all knowledge of the prisoner's whereabouts on the days mentioned.

Ramjoy Bagdee, No. 6, denied having had any participation in

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the dacoity and cited witnesses to prove his having slept on the night in question at the house of one Jyemajhee in Tilpara, the village in which the prosecutor resided, but Jyemajhee denied that the prisoner slept at his house, and none of his other witnesses could bear testimony in his favor: according to the calendar, this prisoner is an old offender, having been convicted of theft, and on the 14th July 1852, sentenced to six months' imprisonment, and on a previous occasion sentenced to suffer corporal punishment in another case of theft.

Rampersaud Mozumdar, No. 7, pleaded that having no family of his own, he had willed all his property to his nephew, Jankinath Sircar, prisoner No. 8, and in consequence of this preference his other nephew Kylashnath Sircar, No. 5, had implicated him in his confession before the darogah, but in reality he had neither knowledge of, nor share in, the dacoity, and cited witnesses to speak to his having been at home at the time of the occurrence, and the existence of ill-feeling between him and his nephew, Kylashnath Sircar.

Jankinath Sircar, No. 8, also pleaded, that his brother, Kylashnath Sircar, had out of spite and jealousy in consequence of the preference shewn to him by his uncle, implicated him in his confession before the police, and cited the same witnesses as the foregoing prisoner, to prove his being at home on the night in question, and the existence of ill-feeling between him and his brother.

The witnesses of these two prisoners were unable to speak to the existence of ill-feeling pleaded, but they had heard of the prisoner, Rampersaud Mozumdar, having willed his property to his younger nephew, all the three prisoners however resided together, and on the night in question the two prisoners, Rampersaud and Jankinath, were at their house, when the villagers assembled and parties came to their house to look for the people seen to be there assembled during the day. This evidence does not exculpate the prisoners from the charges preferred against them, inasmuch as to be accessaries either before and after the fact or to be privy to the dacoity, it was not necessary for them to have quitted their homes, and as the evidence for the prosecution clearly shews all the three prisoners to have resided together and lived as one family, and the fact of the assemblage of people at their house only a few hours before the occurrence, is proved by the *confessions* of the prisoners Nos. 4 and 5, by the evidence of witnesses and the production from the house of the basket and mat in which certain of the implements used on the occasion were concealed, I reject the evidence for the defence as totally insufficient to clear the prisoners from the charges.

I therefore convict all the prisoners and sentence them as follows.

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Khetoo Bagdee, chowkeedar, to ten (10) years' imprisonment with labor and irons, Kylashnath Sircar and Ramjoy Bagdee to seven (7) years' imprisonment with labor and irons, Rampersaud Mazumdar to three (3) years' imprisonment, with labor without irons, and Jankinath Sircar to two (2) years' imprisonment with labor without irons, and jointly and severally to pay a fine of Rs. 717-12 under Act XVI. 1850.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The two articles of property found in the prisoner's house, were identified by the prosecutor and his witnesses, and the *alibi* set up by the prisoner was not established by the witnesses cited by him. We reject this appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND MAHADEB SAHOO

versus

JOYEE SAHOO (No. 6,) HURREE SAHOO (No. 7.)

Cuttack. 1855. August 3. Case of JOYEE SAHOO and another.

The prisoners were acquitted, the evidence against them being considered unsatisfactory.

CRIME CHARGED.—1st count, forgery in having forged or procured to be forged 110 counterfeit Rupees, and one counterfeit half Rupee, also one counterfeit gold mohur and two counterfeit half mohurs in imitation of the coin of the British Government in India; 2nd count, knowingly having in their possession the implements for the purpose of coining counterfeit coins; 3rd count, prisoner No. 6, with uttering in having sold or caused to be sold as true to Mahadeb Sahoo, (plaintiff,) one counterfeit goldmohur, two counterfeit half mohurs and 110 counterfeit Rupees, eight annas (sicca) well knowing them to be counterfeit, on the 27th February, 1855.

Committing Officer.—Mr. W. J. Longmore, joint-magistrate of central division, Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack on the 2nd July, 1855.

Remarks by the sessions judge.—The particulars of this case are as follows:

Mahadeb Sahoo, the prosecutor in the first instance presented a petition at the thannah of Puhrajpore on the 3rd March, representing that in consequence of a requisition made by him some time previous to Hurree Sahoo, the prisoner No. 7, to procure him some sicca Rupees, his son Joyee Sahoo, the prisoner No. 6, accompanied by Anunt Sahoo, whom Joyee Sahoo stated to be his relation, came to his house on the morning of the

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16th Falgoon, corresponding with the 26th February last, and sold him sicca Rupees 110-8-0, one gold mohur valued at Rupees 17, and two half gold mohurs also valued at Rupees 17, for the sum of Co.'s Rs. 151-6-6; and that after Joyee Sahoo and Anunt Sahoo, had taken their departure, he took two Rupees out of the number to Bhujun Sahoo, to have them examined, and found that they were counterfeit, as all the rest, and likewise the gold mohurs proved to be, and on the 24th March, finding that the darogah did not institute any enquiry into the matter, he presented a petition to the officiating magistrate who deputed the *balaqushti* jemadar to enquire into it.

The jemadar then proceeded to the prisoner's village and on the 26th March, searched their houses and found three fresh made earthen moulds in the hollow of a bamboo, forming a part of a *muchan* or platform inside their house, and a *copper* rupee inside a bag; the former of which Hurree Sahoo stated, had been placed in his house by Narain Sahoo, who was in the habit of making counterfeit rupees, and the latter had been given to him by one Lychun Sahoo, along with other rupees to make ornaments with. But no *kulub sazee* or counterfeit rupees of the description sold to Mahadeb Sahoo, were found, and on searching the house of Narain Sahoo, in the village of Numkoor, pergunnah Baloobissee, one *kulub sazee* or counterfeit rupee designated a "*captan* rupee" was discovered.

The deposition of Mahadeb Sahoo, before this court was exactly to the same effect as the above.

Witnesses No. 7, Bhugwan Sahoo, No. 8, Nurruttum Sahoo, No. 9, Bhikarry Sahoo deposed that they saw Joyee Sahoo, in company with a person whom he designated as Anunt Sahoo, a connexion of his, sell sicca Rs. 110-8, one gold mohur and two half ditto to the prosecutor, and take Co.'s Rs. 151-6-6 from him in exchange. But the two former of these witnesses though they stand in the relationship of first and second cousin to the prosecutor, Mahadeb Sahoo, persisted in stating that they were in no way related to him, until they were threatened with being sent to the magistrate to be committed for trial, if it was proved they had perjured themselves, and there was also a slight discrepancy between the depositions made by the third witness in this and the foujdary court, he having here stated that he went to the prosecutor's house to get a light and in the foujdary court that the prosecutor called him.

Bhujun Sahoo witness No. 10 deposes to having examined the Rupees and gold mohurs sold to the prosecutor, subsequent to the sale, and discovered that they were counterfeit.

Witnesses No. 1, Toorab Khan jemadar, No. 12, Ram Pattar, No. 13, Dam Sahoo depose to the fact of three earthen moulds with the inscription of a Rupee stamped therein, and one *tamba* Rupee, having been produced, the former from a

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bamboo forming part of the prisoner's *mâchan*, and the latter from his bag.

Both prisoners denied having sold any counterfeit coin to the prosecutor when apprehended by the *balaqushtee* jemadar, on the 26th March, and Hurree Sahoo stated as above narrated, about the earthen moulds and copper rupee. But on the 28th March, Joyee Sahoo, is represented to have stated at the Hurryhurpore thannah, that Anunt Sahoo sold 19 *kulub sazee* rupees and two half gold mohurs of similar description to the prosecutor, and that he weighed them in the scales (court, this is not stated by the prosecutor,) and stated that they were good and got one rupee for doing so from Anunt Sahoo. And Hurree Sahoo, is stated to have said that his son told him he got one rupee on the above account from Anunt Sahoo, and that he got the earthen moulds for making counterfeit rupees from Narain Sahoo.

Witnesses No. 2, Benoo Sahoo, No. 3, Guddye Nunda, who attested the mofussil examinations of the prisoners, deposed that the prisoners *were taken out of the stocks at the Hurryhurpore thannah between 9 and 10 o'clock at night* for the purpose of having their examinations recorded, and that they in the first place denied selling any counterfeit rupees to the prosecutor, but after the darogah had cajoled them by telling them to confess if they had done so, and the jemadar would procure their release and get them made witnesses, Joyee Sahoo first stated that Anunt Sahoo sold 19 rupees and 2 half gold mohurs to the prosecutor, and that he got one rupee for his commission or *minhutana* for examining them, which he gave to his father Hurree Sahoo. And his father was then called on to admit that what his son had stated was true. Also, that they heard the prisoners had been confined at the thannah since the previous day, though they did not know the exact time of their arrival there.

The examinations of the prisoners before the magistrate are to the same effect as those recorded by the Hurryhurpore darogah on the 28th March.

Witnesses No. 4, Kirpasindho Mhainty, No. 5, Gourung Lal, No. 6, Mohanund Roy, deposed that what the prisoners recorded in their examinations before the officiating magistrate was voluntarily dictated by them.

Before this court Joyee Sahoo prisoner No. 6, denied in toto, and stated that his mofussil deposition was extorted or obtained under compulsion. And Hurree Sahoo No. 7, also denied all knowledge of his son Joyee Sahoo, having sold any rupees or goldmohurs to the prosecutor, and alleged as he had done throughout, that Narrain Sahoo, gave him the earthen moulds for casting rupees, and that he got the copper rupee from Lychun Sahoo.

The *futwa* of the law officer, which will be found with the record, convicts Joyee Sahoo the prisoner No. 6, on the 2nd and 3rd counts charged against him, and Hurree Sahoo the prisoner

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No. 7, on the 2nd count only. But from this verdict I dissent, and I do not think that any reliance can be placed, either on the evidence of the three witnesses who depose to the fact of the prisoner No. 6 having sold the counterfeit coin to the prosecutor Mahadeb Doss, or on the confessions of the prisoner to either the mofussil or the foujdary court. First, because the said three witnesses, though they are related to the prosecutor, in the first place, deposed that they were in no way connected with him, and only acknowledged their relationship after they were informed that they would be committed for perjury, if it were proved that they had deposed falsely. And the third witness who is a neighbour of the prosecutor, stated before this court that he went to prosecutor's house to get a light, and before the foujdary court that the prosecutor summoned him to his house to witness the transaction. Secondly, because notwithstanding the prosecutor's father, who was the real owner of the rupees, was in the house at the time, he was not present at the alleged sale and purchase. And it is by no means probable that the prosecutor would part with the large sum of Rs. 151-6-6 of good money without ascertaining through the *buneahs* and *mahajans* residing in his village, of whom there are three or four, that the money he received in exchange was also good. Thirdly, because the so-called confessions of the prisoners are at variance with the statements of the prosecutor, inasmuch that he stated Joyee Sahoo sold him Rs. 110-8-0, 1 goldmohur, and two half ditto; and the prisoner is represented to have stated that he sold him 19 Rupees and two half mohurs only, whereas had the confession been genuine, and the statement of the prosecutor true, such a discrepancy is not likely to have taken place. Fourthly, it is manifest from the evidence of the witnesses to the mofussil confessions that the prisoners were taken from the stocks at 9 o'clock at night to record their examinations, after they had been upwards of twenty-four hours at the thannah, and their answers denying the charge, had been previously recorded by the jemadar; and that even then, they did not make any admission until inveigled by the darogah to do so under a promise that the jemadar would procure their release if they confessed, and lastly because the *dies* or earthen moulds for casting, found in the house of Hurree Sahoo, were moist and newly made, (and could never be used for coining as they subsequently cracked in drying;) and the *balagushtee* jemadar appears to have at once and without any previous search, to have taken them out of the hollow of a bamboo in the prisoner's *muchan*, which he could scarcely have done without some previous intimation having been given to him that they were there, and I am inclined, in consequence, to credit Hurree Sahoo's story that they were given to him that morning by Narrain Sahoo, and that he may have given them to him to inculpate him and his son.

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Under these circumstances, although there appears grounds for suspecting that the prisoners are connected with a gang of forgers, I do not think the evidence and proceedings held in the mofussil sufficiently trustworthy to base a conviction therein; and recommend that the prisoners be acquitted and released.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) Under the circumstances detailed by the witnesses who were present, when the mofussil confessions were taken, we agree with the sessions judge that neither those confessions, nor the foujdary admissions of them, can be used against the prisoners. There is also too much improbability in the story told by the prosecutor, for us to receive it on the evidence of the witnesses, whose presence at the time the coin was received, as alleged at prosecutor's house, is so unsatisfactorily accounted for. We concur with the sessions judge in acquitting both the prisoners.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

BUSSUROODEEN ALIAS BANSHEE DHAWA.

Hooghly.
1855.
August 8.
Case of BUSSUROODEEN *alias* BUNSHEE DHAWA.

The prisoner was convicted on his own confession of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. J. R. Ward, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 3rd July, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits.

Kalachand Shickdar, approver, witness No. 1, relates in his deposition the particulars of two dacoities, in which he was accompanied by the prisoner. In one of these, viz., the dacoity in the house of the Gungaram Poddar of Bisonathpoor, the prisoner was recognized by the chowkeedar of the village. He denied the charge at the time, but this dacoity is one to which the prisoner confessed before the dacoity commissioner.

His confession to fourteen dacoities, having been proved by the testimony of the subscribing witnesses, has been placed upon the record of the trial before me and read in evidence.

The prisoner admits that he belonged to a gang of dacoits, allows that he confessed to the dacoity commissioner, and declines to make any defence.

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Case of BUSSUROODEEN *alias* BUNSHEE DHAWA.

I would convict him of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The prisoner pleads guilty. He was recognised by the village chowkeedar in the Bisonathpoor dacoity, which occurred some four or five years ago, named by a confessing prisoner in the Ketchoowagram dacoity, which was committed in August, 1851, and arrested in the Maligram affair in September, 1850, in which he confessed crime, but was released. He admits having taken part in fourteen dacoities, among which he enumerates the three above noticed, having been three times arrested and charged with that crime and having been imprisoned in default of security for good conduct for the period of one year in the Baraset Jail. There is therefore no reason to doubt the truth of the prisoner's confession that he belonged to a gang of dacoits. We convict him of the charge and sentence him as recommended by the additional sessions judge to transportation for life.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

SHEIKH TOMEEJUDDEEN.

Hooghly.

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Case of SHEIKH TOMEEJUDDEEN.

The prisoner was convicted on his own confession of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. J. R. Ward, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 3rd July, 1855

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits.

His confession to ten dacoities given before the commissioner for the suppression of dacoity, proved by the testimony of the two witnesses before whom it was made, is the only direct evidence against him.

He was named in the confessions of two dacoits who were seized in the act of dacoity in the Sooltanpore case.* This is also confirmatory of the fact that the prisoner belonged to a gang of dacoits.

He admits the charge on his trial before my court, admits his confession made to the dacoity commissioner, and declines to make any defence.

* Vide cases, pages 90, 105, 297 and 301.

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Case of SHEIKH TOMEEJUDDEEN.

I would convict him of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) In the Sultanpore dacoity which occurred five or six years ago, the prisoner was named by two dacoits who were arrested in the act of committing it and who, on these confessions, were convicted and sentenced. The prisoner moreover pleads guilty at the sessions court and admits his complicity in ten dacoities before the commissioner for the suppression of dacoity, the occurrence of five of which is established by the records forwarded by the magistrates of the districts in which they took place. We see no reason to doubt the truth of the prisoner's confession, and convicting him of the charge of having belonged to a gang of dacoits, sentence him to transportation for life.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT, AND HUREECHURN SEN GOOPTO KOBIRAJ

versus

RAJNARAIN MITTER.

Midnapore.

1855.

August 8.

Case of RAJNARAIN MITTER.

The prisoner was acquitted on the charge of wilful murder in consequence of the insufficiency and untrustworthiness of the evidence.

CRIME CHARGED —Wilful murder, in having on the 27th May, 1855, 15th Jeit, 1262, so severely struck Sonyassee Doss, the servant of Hureechurn Sen Goopto Kobiraj, prosecutor, on the head, that he immediately died from the effects of the wound.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 4th July, 1855.

Remarks by the sessions judge.—The prosecutor deposes that he lodges in the same dwelling with the prisoner; that they, deceased Sonyassee Doss, a lad of about thirteen years of age, his servant, and the witness No. 7, Sreemuttee Kisoree, were the only tenants; that on 27th May, about 2 P. M., he left his house on business, and did not return to it till evening; that the prisoner and Radhanath Mitter* were then there, the former walking up and down in an excited state; that on his, prosecutor's enquiring where his servant, Sonyassee was, he was informed by these parties that he was dead; that the prisoner taking the key from his waist, opened the door of the room and pointed out

* Witness No. 6.

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the body of the boy lying on the floor, weltering in his blood; that he, prosecutor, immediately called in his friends* and neighbours and ultimately gave information to the police.

* Witnesses Nos. 8 and 9.

The witnesses corroborate these facts and Radhanath Mitter,† deposes that he was in the prisoner's lodging on the day of the murder; that he left it soon after the departure of the prosecutor and came back a little before sunset, when he found the prisoner alone. Witness was then struck with the manner of the prisoner, and on witness's enquiring where deceased was, prisoner gave witness the key of the door of the room, which he entered and found the boy lying dead on the floor. Witness was about to go away, when the prisoner begged him to remain and to say nothing of what he had seen, and at this moment the prosecutor and Seedam Kobiraj‡ arrived, to whom he stated what had occurred.

† Witness No. 6.

‡ Witness No. 9.

It is further elicited in evidence that when the prisoner was first arrested, marks of blood were found on his body clothes, and that he, prisoner, was in the habit of visiting a woman, one Bhagobuttee, the mistress of Nittanund Doss, a vakeel of the civil court, and that the deceased Sonyassee was a great favorite of this woman and a frequent visitor at her house; it is requisite to notice the latter circumstance as affording a clue to the motive which prompted the murder of the lad.

The inquest held on the spot shows that the skull of the deceased was fractured and that the wall and back of the door, in which the body was found, were sprinkled with blood.

The evidence of the assistant surgeon,§ shews that there was a compound fracture of the skull on the back of the head, forcing in the bone in several places and causing severe injury to the brain, and that death must have been instantaneous in consequence. The medical officer also expresses an opinion that the fractures were produced by blows of some blunt instrument, such as the pestle of a mortar or the roller of a curry-stone.

§ Witness No. 14.

The lethal weapon is not forthcoming, but there were an iron pestle and mortar in the room where the body was found, and it is both possible and probable, considering the nature of the wounds in the head, that the former instrument was the one used.

The prisoner pleads *not guilty*, and in his defence before the police, accounted for the marks of blood in his body clothes by stating in the first instance that he had come in contact with the deceased's body when he examined it in his house, and afterwards that the blood was that of a fish. The latter statement he repeated before the magistrate. In this court, he gives no explanation of how the stains of blood came on his

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clothes, but only pleads that he is at enmity with the witness, No. 6, Radhanath Mitter, which he fails to establish.

It is clearly proved, in my opinion, that the prisoner and the deceased were alone in the house of the prosecutor between 3 P. M. and 7 P. M. of the 27th May; that the former was found there at about 6 P. M. when his manner showed he was under the influence of fear or excitement; that the door of the room, in which the body of the deceased was found, was closed, and that it was opened by the prisoner, and he showed by his remark, that he was previously aware the body was inside the room and dead.

The presumptive evidence is also strong—that the murder was committed in the room in which the body was found, to which only the prisoner had access, the door being locked and the key in his possession. The prisoner's participation in the murder is also to be presumed from the marks of blood upon his body clothes, of which he gave no satisfactory explanation, and from his endeavouring first, to conceal the death of the deceased and then, to divert the channel of investigation by raising a false alarm that a robbery had been committed in his house. The motive which prompted the bloody deed is not satisfactorily proven, but it is to be gathered from the evidence, that deceased had been employed by Nittanund to watch and report the result of an intrigue, which the latter suspected his mistress carried on with the prisoner, which information, the lad's intimacy with the woman, enabled him to obtain, and that prisoner suspecting he was betrayed by the lad, determined to prevent his further interference by killing him.

The evidence on the whole, though purely circumstantial, is so connected, so clear and so probable that it is not possible, in my opinion, to resist the presumption that the prisoner is the perpetrator of the bloody crime, with which he is charged.

The assessors, with whose aid the trial was held, declare the prisoner guilty of the charge on which he is arraigned. I quite agree in this finding, and convict him accordingly of the murder of the deceased, Sonyassee. Since however the evidence is purely circumstantial, I would with-hold an irrevocable sentence and recommend that he be imprisoned for life in transportation beyond sea.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The only evidence against the prisoner is presumptive, and that rests on the testimony of the prosecutor and the witness, Radhanath Mitter. These have so varied their statements at the thannah, before the magistrate and the sessions judge, in respect to the points, which tell most against the prisoner, that no reliance can be placed on what they say. A cruel murder has been perpetrated, but no evidence of the least satisfactory nature has been adduced regarding the

perpetrator. Deeming the evidence of the guilt of the prisoner altogether insufficient and untrustworthy, we acquit him and order his release. We observe that the sessions judge, in his letter of reference, has not adverted at all to the extraordinarily contradictory statements made by the prosecutor in the mofussil; nor has he noticed the conflicting assertions of the prosecutor and the principal witness Radhanath, regarding their return in the evening of the murder, and of what occurred regarding its disclosure.

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Case of RATNARAIN MITTER.

PRESENT:

A. DICK AND J. H PATTON, ESQS, *Judges*

GOVERNMENT AND OTHERS

versus

MULLICK MAHOMED SUDDEEQ.

Behar.

1855.

August 8.

Case of MULLICK MAHOMED SUDDEEQ

The prisoner was convicted of riot attended with culpable homicide and sentenced to fourteen years The examination of two witnesses for the defence was taken by the Nizamut Judges.

CRIME CHARGED.—1st count, affray attended with murder of Thakoorpershad Doobey, and wounding of Jeodhur Singh, Byja Gwalla and Chundoo Gwalla; 2nd count, affray in which Thakoorpershad Doobey, Jeodhur Singh and Byja Gwalla, were wounded, and Chundoo Gwalla maltreated, and from the injuries received in which affray, the aforesaid Thakoorpershad Doobey, died thirty-seven days after.

Committing Officer.—Mr. F. C. Fowle, magistrate of Behar.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 8th June, 1855

Remarks by the sessions judge—This trial is supplementary to two others marginally noted,* which have already been before the superior court.

The village of Keenjeer is held under a long lease by Mr. Solano,† who on 4th May, 1853, sublet it to Ruttoo Choolahee and Dulsingee Rajpoot residents of the place. They fell into arrears, could not complete the conditions of the sublease, and resigning on 21st December, 1853, returned the original *putta*. Choolahee absconded, is amongst the accused, and though from first to last, there has been no honest appearance on behalf either of this party or their Myth Mullick Dhoopun Singh,

* Government and others *versus* Mullick Uhmud Znma *alias* Tehtur (No. 1,) and Jeobudhun Singh, (No 2)

Printed decisions 23rd March, 1855. Page 347.

Ditto *versus* Gobind Singh Rajpoot.

Ditto ditto 354.

† Mr. Solano's petition filed is ruedad on 17th October, 1854, together with original *putta* of 4th May, 1853.

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during the proceedings in the former trial, the story on their side as volunteered by Jeobudhun convict, is as follows. The resignation of the sublease is denied. Mr. Solano surreptitiously recovered possession of its original *putta*. The sub-lessees sold twelve annas of their sublease to one Mullick Dhoopun. Ruttoo apparently sided with Mr. Solano,* and put up to it by Mahomed Suddeeq Choolahee, and Dulsingur, had instituted a false suit in the principal sudder ameen's court. Mullick Dhoopun too had never been forthcoming. He entered a petition on 15th July last, through his attorney, Mushruff Ally counsel for the† convict Tehtur in the former trial, merely promising particulars in maintenance of his claim, which up to the present, he has never done, and is otherwise unknown except as volunteered for by the convict Jeobudhun. The chief actors, figuring on Mullick Dhoopun's part in the transaction under trial and those which preceded it, are Mullick Tehtur and Mahomed Suddeeq prisoner. Mullick Dhoopun's character of Myth is still kept up, for although cited by the prisoner as a witness, No. 16 of the calendar, he did not attend.

* Mr. Solano's petition above cited.

† Vide Ruedad 12th October, 1854.

The tale for the prosecution is, that the deceased and Jeodhur Singh, prosecutors, were Mr. Solano's servants, located at Keenjur for the mangement of the village. Throughout May and June, 1854, up to the date of the occurrence under trial; repeated reports by the police showed that Mr, Solano's management had been tumultuously opposed in Mullick Dhoopun's name by Mahomed Suddeeq, aided by the late sub-lessee and other Rajpoot residents of the village. On 5th July, 1854, Girdharee Kant (witness No. 13, absent before this court) appeared at the thannah with the information that Mahomed Suddeeq's party had surrounded the village cutcherry, and were bent on mischief. The darogah thereon records the same date, received by the magistrate on the 8th, that he had started at once for Keenjur and under another note of his on the face of Chummun's (witness No. 14's,) information, the following day that he had reached Purearee during the night, had been detained there by rain, and had just started for Keenjur, where he met Chummun, and who was immediately afterwards followed by the wounded men.

The occurrence is said to have taken place early in the morning of the 6th, when deceased and Jeodhur Singh resolved to quit Keenjur and retreat to the sudder cutcherry, a considerable distance off. Jeodhur Singh on an elephant, the deceased on foot, followed by his servant Chundoo Gwalla, prosecutor, and accompanied by Kissoon Roy and Gunga Bissoon, two Shahabad peons in charge of Byja Gwalla, prosecutor, a

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Case of MULLICK MAHOMED SUDDEEQ.

Jeodhur Singh, prosecutor.
The deceased before police and magistrate and Byja Gwalla prosecutor Chundoo. Ditto ditto.
Witnesses
No. 1, Uchumbit Singh.
,, 2, Byjnath ditto.
,, 3, Sheeochurn ditto.
,, 4, Imrit ditto.
,, 5, Kissoon Roy.
,, 6, Gungabissoon.

defaulter, who had been forwarded to Jeodhur Singh for settlement of his account, constituted the retreating party. They had reached the banks of the Muhuneea Nala, equidistant between Keenjur and Pureeree and within sight of both places, when they were pursued by armed bodies of men, turning out of Keenjur and another village, headed by Mahomed Suddeeq, the convict Mullick Tehtur and others, who surrounding them, the deceased was struck down with a Ghurrasa or battle-axe by Gobind Singh convict, and slightly wounded with swords by the convict Mullick Tehter and Mahomed Suddeeq prisoner, and with clubs by others. Mahomed Suddeeq is also said to have snatched away a bag of money, Rs. 235, the deceased was carrying. Chundoo prosecutor had his right arm bone broken by a club-blow struck by the convict Jeobudhun; and Byja Gwalla, prosecutor, had a simple sword cut upon the front and middle part of the left arm struck by Mahomed Suddeeq, when on Poorraie's, Suddeeq's uncle, recognizing him as a former tenant of his, Suddeeq's party* thereon, carried him off to his village of Bazeedpoor, forcibly detained him there, and then eventually carried him back to his home, when he voluntarily appeared at the thannah on 14th July following; Jeodhur Singh, who was ahead, was speared whilst on the elephant by Ramsuhaie and Chumroo Singh (both absconded) and otherwise beaten by the rioters generally.

* Byja's evidence only.

The prosecutors and witnesses on the present occasion recognizing the prisoner, repeat their original depositions, and have stood a cross-examination, they must have been unprepared for, which I think fairly establishes the fact of the prisoner Mahommed Suddeeq having blockaded the prosecutor's party in the village cutcherry during the night prior to the occurrence charged, as reported at the thannah by Girdharee Kant.

Jeodhur Singh, prosecutor.
Chundo Gowalla, ditto.
Byja ditto, ditto.
Witnesses.
No. 1, Sheochurn Singh Rajpoot.
,, 2. Imrit Singh ditto.
,, 3, Kisson Roy ditto.
,, 4, Gangabissoon ditto.

The prisoner's arrest was energetically secured in Calcutta, on 10th April last, by the Calcutta police acting on information sworn to by Mr. Solano; Mahommed Suddeeq, disavowing any interest in the dispute which has so wilfully occasioned these outrageous tumults ending in loss of life and severe wounding, repeats the idle story of Mullick Dhoopun's purchase of the sub-lease, offers to file its deed of sale, and alleges the accusation

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to have been trumped up against him by Mr. Solano consequent on his declining to give a farm to Mr. Solano, of some landed property possessed by him, situated within the limits of the large estate of Beylkarra, of which Mr. Solano holds the lease. He also sets up an *alibi*, which includes his absence in this district, either *en route* to, or sojourning in, Calcutta, looking after a lawsuit in the Sudder Dewanny, from the end of Bysack, 1261, beginning of May, to the date of his arrest, and cited numerous witnesses in support, Nos. 5 to 20 inclusive and to which effect those marginally noted,* have attended and deposed in this court. The story repeated by these witnesses is a manifest conviction of over-studied details propped up by adherents or retainers. Had there been any truth in the accusation falsely originating in Mr. Solano's alleged grudge against Mahomed Suddeeq, it is not very likely that his cousin, the convict Tehtur, would have remained silent regarding it as he did during his trial, nor is the highest court in the country to be thus idly turned into a place of refuge for every felon, as has now been twice† pleaded before this court, during the sessions of the current month in so daring a manner as best bespeaks and confirms the opinion I have heretofore had occasion to express of the characters of these two persons, who thus singularly attempt the same dodge, each in his own different case about the same time. But no attempt is too extravagant for bold offenders. To credit Mahomed Suddeeq's *alibi* it will be necessary to admit the possibility of an intelligent intriguer like him, whether present in, or absent from, the district remaining innocently ignorant of repeated criminal informations lodged against him, and the notices, summonses, and warrants issued against him by the magistrate, which so unsuccessfully followed, both prior to and originating the occurrence the subject of report, and still more egregiously so, that whilst living with his *mokhtar* Tubaruck Hossain (his witness No. 14, absent) and thus according to his own account, whilst virtually in attendance on the sudder court, his knowing nothing of his cousin Tehtur, his retainer, Govind Singh's convictions and his own serious implications therein, which in such case may be thus said to have taken place in his own avowed presence. The prisoner's witnesses attempt no explanation in this respect, except the co-sharer, Mullick Imambux (witness No. 7,) who with equal effrontery said, "How could the prisoner be considered to have absconded when in attendance on court?" Such flimsy

* Witnesses.
No. 5, Mahomed Ally Khan Sowar.
" 6, Sheikh Nuzzer Ally.
" 7, Mullick Emambux.
" 8, Mullick Noor Ally.
" 9, Mullick Amud Ally.
" 10, Mullick Furhut Hossain.
" 11, Munoruth Singh Bubhur.
" 13, Mullick Zuhoorul Hossain.
" 20, Sheochurnloll Putwarry.

† The prisoner Mahomed Suddeeq and the escaped convict Gokool.

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pretences, together with such wilful evasion of justice by the prisoner, which but for the alacrity of the Calcutta police, and the facilities afforded by the Electric Telegraph, he would doubtless have still longer continued, at once disproves the prisoner's worthless *alibi*, which consonant with all his acts is alike remarkable for its bare-faced impudence.

Three of the jury* unanimously acquit the prisoner on both counts, whilst the fourth Bhoonnee Singh convicts him on the first. It is in cases of this kind particularly, I fear, that juries will be generally found defective.

* Gheyar Ally of Konund, Behar. Deyanut Ally of Badoolla Chuq, Patna. Behareeloll of Sooltanpore, Behar Bhoonnee Singh of Futtepore, Behar.

The result of the present trial together with those of two preceding ones tend still further to confirm the opinion expressed by me on the original trial—printed decisions for March, 1855, pages 350 and 351. Mahomed Suddeeq must be held directly responsible for all that has so wilfully happened. He has been the undoubted leader throughout these spurious tumults ending in so much malicious violence, and in which he personally took such an active part, whilst that of his cousin Tehtur was altogether secondary to his own. I convict Mahomed Suddeeq, of riot attended with the aggravated culpable homicide of the deceased, and I find it difficult to assign a lesser punishment to him as principal in so daring an outrage than what his retrainer Govind Singh has been already sentenced to, viz. fourteen years' imprisonment with labor in banishment to any other district than Patna, where the prisoner would find himself equally at home as in this district.

Remarks by the Nizamut Adawlut. (Present: Messrs. A. Dick and J. H. Patton.)

Mr. A. Dick.—Two of the witnesses, named by the prisoner to the magistrate for his defence, not having been summoned to depose at the trial in sessions, in consequence of their abode being in Calcutta; and the pleaders of the prisoner being desirous to have the benefit of their testimony, the Court directed that they should be brought. They have now been examined, and cross-examined before us.

The evidence for the prosecution is very decisive, that the prisoner was present at the affray, the leader in it, and actively engaged in wounding two of the persons injured. On the other hand, there is nothing on record to evince the interest of the prisoner in the case, the cause of the outrage: though the fact of his cousin being convicted of it, would lead to a supposition that he had some concern in the matter. And it is very extraordinary, that he should for months have eluded apprehension, and no stringent measures adopted to induce him to appear; for he possessed house and home, and landed property

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in the neighbourhood of the scene of outrage attended with homicide. It is however in evidence, that he was informed of the occurrence of the affray, and of his being accused as principally engaged in it, also that his cousin was accused, had given himself up, been tried, and convicted: yet he never appeared, and produced his proofs to establish his absence in Calcutta, which would have been the natural course for a man innocent of the charge.

His witnesses to his presence in Calcutta, at the time of the affray, speak much too generally on the point, and cannot state a single circumstance, which enabled them to speak so confidently of his being in Calcutta before, and at the time of the occurrence, and though prisoner asserts that he came down to Calcutta to look after a case in special appeal in the sudder Court, yet he has called neither the *mookhteear*, nor the pleader, who were employed in it, to testify to his presence here, at the time in question. And not a single document signed by him at that juncture is forthcoming. The evidence therefore which he has adduced to prove his *alibi*, cannot weigh with effect against the positive and accumulated evidence of eye-witnesses for the prosecution, who after a close cross-examination by himself, were consistent with each other; except one out of eight, who differed from the others in describing the dress wore by the prisoner at the affray. I concur therefore in convicting him; and as he is proved to have been the leader, and to have wounded the man who died, and another, he fully deserves the sentence recommended: and I would convict and sentence accordingly.

I would observe that the judge in his letters of reference in this case, has animadverted, in the strongest terms against the character of the prisoner. From this he should scrupulously abstain, unless he can refer to proofs on record.

Had the magistrate followed up his orders for the apprehension of the prisoner, charged with so heinous an offence, by attachment of his house and lands, the prisoner could not have set up the complicated defence, which has caused so much trouble in fully investigating.

Mr. J. H. Patton.--This case has been reported at great length by the sessions judge, in his reports of two previous trials, held in respect to other parties charged with being concerned in the same affray attended with culpable homicide and wounding. These cases will be found reported at pages 347-8-9 and 350-1-2-3-4-5-6, of the Nizamut Decisions for March, 1855. The evidence, adduced in those two trials, is the same as that brought forward in this and is clear, consistent and trustworthy. It convicts the prisoner of being the ringleader of the riot and tumultuous breach of the peace, and the party who inflicted two of the sword-wounds received on the occasion, and brands him

with the imputation of a daring, unscrupulous and turbulent subject. The prisoner denies the charge and sets up a plea of *alibi*, affirming that he was in Calcutta when the alleged outrage took place. He has cited two classes of witnesses in support of this plea. One to prove that he left his country on a date previous to the riot, with the avowed intention of going to Calcutta, and the other to establish his presence there at the time of the occurrence. The former evidence is valueless, inasmuch as it only extends to the proof of his setting forth from home with an avowed object, without in any way showing that that object was accomplished. The precise time also of his alleged departure is not satisfactorily spoken to. The latter is both untrustworthy and vague, and indefinite and altogether insufficient to establish the important plea of *alibi*, the proof of which should be conclusive and above all taint and suspicion of having been prepared for the occasion. That the prisoner was in Calcutta, after the occurrence, there can be no doubt, as he was denounced before the police authorities as a fugitive from justice, and arrested and sent up to Behar to take his trial. It is most probable that he absconded immediately after the affair and fled to Calcutta, as his surest refuge from the reach of arrest. All that his witnesses say on this subject is, that he was there from Jait 1261, to Chyte, 1262, while the occurrence took place in Assar of the former year, the month succeeding Jait. It only requiries three or four days I believe in the rainy season to come down by boat from the neighbourhood of Dinapore, and the witnesses fail altogether to give any reason why they should recollect that it was the month of Jait and not the month of Assar that the prisoner arrived in Calcutta. Their evidence on this point is by no means satisfactory. Beyond all doubt the prisoner's arrest in Calcutta has greatly facilitated his disingenuous plea of *alibi*, and the circumstance has been made the most of to secure his release. Besides the above, the prisoner in his petition to this Court, after his arrest, praying to be tried here instead of being sent to Behar, distinctly sets forth that he came to Calcutta to look after the appeal made by his alleged accomplices in crime, Mullick Thetur and others, (decided by the Court on 23rd March last) which statement runs directly counter to his assertion in defence that he came here in Jait 1261, i. e. May or June, 1854. Under these circumstances, I would convict the prisoner of the crime charged and sentence him as recommended by the sessions judge.

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Case of MULLICK MAHOMED SUDDEEQ.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT

versus

ALI MAMOOD.

Jessore.

1855.

August 10.

Case of ALI MAMOOD.

The prisoner's conviction was affirmed.

CRIME CHARGED.—1st count, culpable homicide of Boirub Napit, by wounding him on the 27th February, 1855, corresponding with 16th Fhalgoon, 1261, B. S. from the effects of which he died on the 18th of March, 1855; 2nd count, severe wounding of Boirub Napit.

CRIME ESTABLISHED.—Culpable homicide of Boirub Napit.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Malet, officiating sessions judge of Jessore, on the 25th May, 1855.

Remarks by the officiating sessions judge.—Boirub Napit's cow trespassed on the *kelai* of the prisoner; he called on the owners to drive her off; there appears to have been some little delay in their doing so; however, when they did, after abusive language on either side, the prisoner ran into his house, which was near at hand, and brought out a "*lal*" (the pole of a plough); he first assaulted witness No. 1, the son of the deceased, and knocked him down (but it does not appear that he was much hurt); the deceased hearing the noise then came up, the prisoner struck him on the head, so that he fell senseless, and then himself ran off, the deceased was helped up by witnesses Nos. 1 and 2, and with their asisistance managed to walk to his house, and the same day went with help to the zemindar's cutcherry, which was close by to complain, the zemindar's people and the village chowkeedar gave notice at the thannah. The deceased went home and was doctered for some time by his own people, and while there, was visited by the police, but it appears he did not wish to make any complaint, and the report was made that the wound was slight, the darogah however not being satisfied, or accidentally hearing that it was of more consequence than was at first thought, sent another burkundaz, and on his report, deputed the thannah mohurrir; even at this time the poor man did not wish to press his complaint, but the mohurrir sent him

Witness No. 1, Gudadhur Nai.
" " 2, Dipomoi Bewah.
" " 1,
" " 2,
" " 4, Sonaoollah.
" " 1, Zemindar's Itlanamah, No. 4

Darogah's report of 2nd March.

1855.

August 10.

Case of ALI MAMOOD.

Deposition of deceased dated 16th March.

Witnesses

No. 14, Toriboollah Sheikh.
" 15, Chunderkunt Ghose
" 8, Dr. Palmer.
" 9, Omachurn Dey, native doctor.

into the hospital, where fever supervened and the man died on the 20th day, after the infliction of the wound The wound itself was looked to by the native doctor, and the body after death examined by the civil surgeon, their evidence is conclusive that the blow on the head was the cause of the man's death.

The prisoner before me denied the fact, stating that the defendant struck his head against a pointed bamboo, but this was entirely unsupported.

I tried the case with the assistance of a jury, they not being perhaps aware that a man could linger so long before succumbing to a wound of this sort, found the prisoner *not guilty* of homicide, but only of wounding as mentioned in the second count.

Under Regulation VI. of 1832, I pass by this verdict, and find the prisoner guilty of culpable homicide, and considering on the one hand that he was not content with abusing the deceased, but went to his house and with a heavy weapon, which he brought from it, struck a defenceless old man, but on the other hand, that there was no previous enmity, that the man was so terrified at his own act that he immediately ran off; I consider all ends of justice will be answered by sentencing him to seven years' imprisonment with labor in irons.

The burkundaz, that made the first report, has been sent for to give his reasons, but I do not consider that any remark is required.

Remarks by the Nizamut Adawlut - (Present Mr. B J Colvin.) There is good evidence on the record that the prisoner is guilty of the crime charged against him, and there is nothing to prove his defence that the deceased died from a pointed bamboo penetrating his head. I reject the appeal

PRESENT:

B. J. COLVIN, ESQ., *Judge*.

GOVERNMENT AND SOOLTAN SHEIKH
versus
PANCHOO SHEIKH.

Rajshahye.

1855.

August 10.

Case of PANCHOO SHEIKH.

The prisoner was convicted before the sessions judge of attempting to commit burglary and of wounding the man who arrested him.

Appeal rejected.

CRIME CHARGED.—Attempt at burglary and theft, attended with wounding of Baroo Sheikh who caught him in the act.

CRIME ESTABLISHED. Attempting to commit a burglary, and wounding Baroo Sheikh.

Committing Officer.—Mr. E. S. Pearson, joint-magistrate of Pubna.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 28th June, 1855.

Remarks by the sessions judge.—The facts of this case are as set forth in the charge. The prisoner was in the act of making a *seend* or hole to effect a burglarious entry into the house of Mehtabdee Sheikh, when Baroo Sheikh, his neighbour, saw him and seized him. The prisoner then told the witness to let him go and catch the others who were running off. The witness however saw through the dodge, and kept his hold of the prisoner, who with the *seend kattee* (a bar of iron about a finger thick with a hook at one end) struck the witness with the blunt end on the head, making it bleed; and almost immediately after, the chowkeedar and some of the villagers came up and helped to secure him. The prisoner pleaded not guilty, and when called upon for his defence gave in a petition, setting forth he was returning home and had put up for the night in the house of some one, when this false charge was got up against him, chiefly with a view to obtaining money for catching a thief. He had no witnesses and not one, of those to his apprehension, knew him before. I have, therefore, concurring in the *futwa* of the law officer, sentenced him as stated below. The joint-magistrate had given the wounded man 5 Rupees, and I directed the payment of 5 more, as there can be no doubt the prisoner was a bad character, and went by the *sobriquet* of Panchoo *Chore*.

Sentence passed by the lower court.—Four years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) There is nothing to disprove the evidence of the prisoner's guilt, I therefore reject the appeal.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT AND JANUKEERAM

versus

MUSST. SOOBUN (No. 1, APPELLANT,) MUSST. ABEEAH (No. 2,*) BHOOBUNRAM DEB (No. 3,) SKABOORAM DEB (No. 4,*) MOHUNRAM DEB (No. 5,*) SHOOBARAM DEB (No. 6,*) AND ANWUR MAHOMED CHOWKEEDAR (No. 7.*)

Sylhet.

1855.

August 10.

Case of Mussr. Soobun.

The prisoner's complicity was established.

CRIME CHARGED.—1st count, Nos. 1 and 2, culpable homicide of Musst. Koroona, by administering or causing to be administered medicines to procure abortion; 2nd count, Nos. 3 to 7, privity to the crime charged in the 1st count.

CRIME ESTABLISHED.—Being an accomplice in the culpable homicide.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 19th June, 1855.

Remarks by the sessions judge.—There are no eye-witnesses to the transaction, but the prisoner, before the darogah and magistrate said, that Musst. Abeeah (acquitted) had, in her presence inserted a root into the vagina of the deceased, with the view of procuring abortion, and that she died in consequence. These confessions are proved to have been made voluntarily, and as the prisoner was a consenting party to the deed, and took no measures to prevent the crime, I consider her guilty of being an accomplice in the homicide of the deceased.

Sentence passed by the lower court.—No. 1 to be imprisoned without irons for one year, and to pay a fine of Rs. 10, on or before the 30th instant, or in default of payment, to labor suited to her sex.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) From the tenor of the prisoner's answers, it is clear that she was an accomplice in the act, for she sent for the requisite root. I therefore affirm the conviction.

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* Acquitted by the lower court.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND OUTAR PANDEY

versus

INDUR SINGH (No. 3,) MIRGO SINGH (No. 4,) IZZUTH SINGH (No. 5,) AND DULLOO DOSAD (No. 6.)

Shahabad.

1855.

August 13.

Case of INDUR SINGH and others.

Conviction and sentence passed by the sessions judge on a charge of riot attended with assault and severe wounding, upheld in appeal.

CRIME CHARGED.—Riot attended with assault and severe wounding of Outar Pandey, the prosecutor.

CRIME ESTABLISHED.—Riot attended with assault and severe wounding of Outar Pandey, the prosecutor.

Committing Officer.—Mr. H. Richardson, officiating magistrate of Shahabad.

Tried before Mr. W. Taylor, sessions judge of Shahabad, on the 31st January, 1855

Remarks by the sessions judge.—This is a case of riot and assault with severe wounding.

It is in evidence that the prosecutor, perceiving the prisoners with others chasing some boys, remonstrated, when prisoner, No. 3 at the instigation of No 4, attacked him and wounded him severely with a sword. Nos. 3 and 4, were present and consenting to the riot.

The facts are clearly and satisfactorily proved by the evidence of the eye-witnesses, named in the margin * The prisoners plead the usual *alibi* to which the usual witnesses depose.

* Bhagee Thakoor, Ramphul Pandey, Gomraj Pandey.

Such evidence is utterly unworthy of credit in opposition to direct and positive evidence for the prosecution.

The *futwa* finding the prisoners guilty of the crime charged.

The assault was unpremeditated and in the anger of the moment, the blow was not repeated, nor are there any other aggravating features in the case.

Sentence passed by the lower court.—Nos. 3, and 4. Each to be imprisoned without irons for three years, from the 31st January, 1855, and to pay a fine of 100 Rs. each, on or before the 15th February, 1855, and Nos. 5 and 6, each to be imprisoned without irons for one year, from the 31st January, 1855, and to pay a fine of 50 Rupees each, on or before the 15th February, 1855, in default, all to labor, until the fines be paid or the term of their sentences expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The evidence convicts the prisoners of the crime charged, and they have been unable to prove satisfactorily the *alibis* set up by them in defence. We see no reason to interfere with the conviction and sentence.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

BANYNATH BUNDOPADHIA, POLICE DAROGAH.

Dinagepore.

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Case of BANYNATH BUNDOPADHIA, police darogah.

Prisoner acquitted, the evidence against him being very defective and suspicious.

CRIME CHARGED.—Extortion and corruption, in having levied a general contribution from the villages, mentioned in the calendar.

Committing Officer.—Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr. James Grant, sessions judge of Dinagepore, on the 6th June, 1855.

Remarks by the sessions judge.—The prisoner was charged with extortion and corruption, in having levied a general contribution from sundry villages. Extortion in levying a contribution from chowkeedars, munduls and other villagers, is clearly proved, and I see no reason whatever to doubt the evidence of the witnesses for the prosecution. The *futwa* of the law officer acquits the prisoner, principally on the grounds that no person prosecuted; that the men, who speak to having themselves paid, cannot be admitted as witnesses, because they might have been prosecutors, and that the case appears to have been got up by the thannah mohurrir, in the hope of obtaining the darogahship. This doctrine of the law officer is the same as that declared absurd and inadmissible by the Nizamut Adawlut, in the case of Government *versus* Moomtaz Ali, Reports volume 2, page 341, of 1824. The mohurrir may possibly have looked for promotion, but that does not, in my opinion, invalidate the evidence of the witnesses generally, or make it probable that the money found in the prisoner's possession was not part of the contribution. The prisoner's explanation in respect to this money is by no means satisfactory, and the fact of his having acknowledged in his answer in the foujdary, that he had taken the money, makes it unnecessary to go into detail regarding it. His subsequent indirect denial of this confession is any thing but satisfactory. I recommend that the prisoner be sentenced to three (3) years' imprisonment with a fine of 200 Rs. in lieu of labor.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The Court are of opinion that there is no evidence in this case, on which the least confidence can be placed. It consists only of the statements of chowkeedars, munduls and others, who in most instances have each testified only to what he himself gave. They do not corroborate each

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other, so as to prove the several alleged extortions. The evidence, of the mohurrir and burkundazes, is of far too interested and suspicious a nature to be relied upon; and it is to be regretted that the magistrate did not himself immediately proceed to the spot, and investigate the charge of bribery in the case of the theft in the Brahmin's house, brought to his notice by the mohurrir and burkundaz Hajjee Muhumud. The prisoner has fairly accounted for the circumstance of having borrowed two rupees from the burkundaz on his return, and given a detailed account of what money he brought back with him from his home, how he had disposed of part of it, and how the balance was found in his tin *petarah*, and the seal box which was with him, against the truth of which no evidence has been adduced. It is further to be observed, that the witnesses and others, who have testified to the extortion, have stated that they were never before subjected to it. Now it appears that the prisoner had been for two or three years the darogah of that thannah. It is passing strange, therefore, that he should have commenced his extortions immediately on his return, and in the face of the severe examples which had been made in that very thannah during the short interval of his absence! In conclusion, the Court remark that the verbal order of the magistrate to the mohurrir to supersede his superior was utterly illegal. The appointment of a police officer to a thannah, requires a written document under the magistrate's official seal and signature to be furnished to him, under Clause 3, Section 3, Regulation XX. 1817. Under the above circumstances, the Court acquit the prisoner and order his release.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND MUSST. ETWARRIA
versus
KOKIL SINGH.

Patna.

1855.

August 14.

Case of KOKIL SINGH.

The prisoner, having flogged and beaten the deceased so unmercifully that he died the next morning, was convicted of aggravated culpable homicide and sentenced to fourteen years' imprisonment.

CRIME CHARGED.—Wilful murder of Heeramun Tumbolee.

Committing Officer.—Mr W Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 30th June, 1855.

Remarks by the sessions judge.—In this case it has been established by evidence that the prisoner, who is the gomastah and tehseeldar on the part of the proprietors of mouzah Hussnee and other villages, called the deceased to him at the village cutcherry on the 14th May last, (sending Mutoora Hajam, witness No. 2, to fetch him,) to make him pay two rupees rent, alleged to be due by him. This he could not or would not do, upon which the prisoner flogged and beat him so unmercifully, that he died the following morning.

The witnesses, Rumun Lall, No. 1, Mutoora Hajam, No. 2, Nuggoo, No. 3, and Budowrun, No 6, all distinctly and consistently swear to this much; but Nos. 1, 3 and 6, being ryots under prisoner, and No. 2 being prisoner's own servant, their evidence is given with a palpable bias in prisoner's favor, and it is their evident object to make out that the instrument used was the *lash* of a *korah* or small riding whip, which has been produced in court, and which could not possibly have inflicted all the injuries received. Still Mutoora Hajam admits deceased was "well beaten" by the prisoner, while Burdowrun says, both blows with the "*korah*" and kicks were inflicted, the deceased "crouching down" during the infliction, and *falling down on the ground* from extreme pain. Two other eye-witnesses also speak to all this, Chumun Chowkeedar, No. 4, and Tirbhowun Dosadh, No. 5, but I lay little stress on their testimony, as they appear to me to account unsatisfactorily for their presence on the spot, and from their professions are persons, the police would *make witnesses of* in accumulation of evidence.

The witnesses to the *sooruthal* or inquest are three. Ramchunder and Nuthoo, Nos. 8 and 9, speak to the severity and number of the blows or wounds apparent on deceased's body shortly after death, while Dr. W. S. Dicken, civil surgeon of Patna, witness No. 7, affirms that by the *post mortem* appearance and autopsy, it was evident the deceased had been beaten most severely and all over his body; and that the blows and injuries so inflicted were doubtless the cause of death. By

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the testimony of all the witnesses, deceased was in good health to the day of his death, and though Dr. Dicken says, the *korah* or whip produced could not have inflicted the fatal blows and wounds, yet he does not say that the deceased was probably beaten by other and heavier weapons; and it is clear to me the unfortunate man had his skull fractured by falling or being thrown on the ground after being flogged, kicked and beaten beyond all endurance, or power of resistance.

Before me the prisoner pleads *not guilty*, and says the charge is false and the witnesses liars; that he did nothing to deceased; that deceased was his tenant, being also in trade as a goldsmith, and keeping prisoner's collections in his charge as a treasurer; that he had thus 100 Rs. of prisoner's, which he would not repay; and that because he (prisoner) asked him for them, he (deceased) *trumped up this charge*, and having inflicted the wounds on his own body, with the assistance of one Chuttoo Noonia, *killed himself to spite prisoner!*

There was no absurd defence of this kind made in the first instance, and prisoner's own witnesses (Nos. 1, 2 and 3.) contradict it, although willing enough to say any thing to save their landlord's agent. The two first say, prisoner asked deceased on the day in question to pay his rent, and nothing else; while witness, No. 2, Hookum Singh, says the sum demanded was two rupees only as stated by the witnesses for the prosecution. They say deceased died the following morning, *but they don't know from what cause;* witness No. 3, Goodree Rai, says the same admitting prisoner flogged the deceased; and the rest of the witnesses to the defence, nine in number, prisoner's attorney declined having examined.

I look upon this as a case of aggravated culpable homicide, in which view the law officer concurs; and I beg to recommend a sentence of fourteen years, with labor and irons in banishment. It is necessary to make a severe example of all such acts of zemindars, and zemindar's agents, when (which is very seldom) they are discovered; and in this instance, the prisoner is a man of much influence which he has exercised to some effect over the evidence for the prosecution, (though unable to prevent its condemnation of him to a certain extent,) and has had twelve witnesses summoned to speak in his favor, and four *mooktears* to aid him in his defence; the deceased's widow being alone and unaided in the prosecution, and being moreover, she affirms, threatened with ejectment by her landlord for daring to seek to obtain redress for the cruel and unprovoked torture and homicide of her husband.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H Patton.) It is in direct evidence that a severe, cruel and wanton assault was committed *by the prisoner on the deceased,* who died the next day, and the testimony of the civil

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surgeon shows that the injuries sustained were very severe, and quite sufficient to cause death. The defence set up by the prisoner, that the deceased killed himself to avoid payment of 100 Rs. deposited with him by the prisoner, is too absurd for notice. We concur with the sessions judge in convicting the prisoner of aggravated culpable homicide, and sentence him, as recommended by that officer, to fourteen years' imprisonment with labor in irons in banishment.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND SHUNKUR ROY

versus

BAKHORY ROY (No. 1,) SOODIN ROY (No. 2,) MOHUN ROY (No. 1, CALENDAR FOR APRIL, 1855.)

Shahabad.

1855.

August 14.

Case of BAKHORY ROY and others.

The prisoner was convicted of culpable homicide and sentenced to seven years' imprisonment. The Court noticed the inadequacy of the punishment, and the imperfect manner in which the trial had been conducted in all its stages.

CRIME CHARGED.—Wilful murder of Chooah Roy, brother of Shunkur Roy, the prosecutor.

CRIME ESTABLISHED.—Culpable homicide of Chooah Roy, brother of Shunkur Roy, the prosecutor.

Committing Officer.—Mr. A. A. Swinton, magistrate of Shahabad.

Tried before Moulvee Rooknooddeen Khan, officiating sessions judge of Shahabad, on the 10th April, 1855.

Remarks by the officiating sessions judge. The prisoners in this case are convicted of assaulting and killing the prosecutor's brother, Chooah Roy, in consequence of his having allowed his buffalo to graze in their fields.

The facts of the assault are sworn to by the eye-witnesses as per margin,* the circumstances that preceded it, are not in evidence, but the injury inflicted by cattle-trespass is very serious, and from the owner of the buffaloes (the deceased) being present on the spot, and his brother, the prosecutor close at hand, there is ground to presume that the trespass was wilful, a fact which would inevitably lead to remuneration and excitement, there is no evidence of previous enmity or ill-will. No severe wounds seem to have been inflicted, but death was caused by rupture of the spleen.

* Misree Doobee, Thakdor Roy and Bhorabind.

The civil surgeon being absent at Dinapore, was unable to give evidence before the sessions court, but his deposition was taken on oath in the magistrate's court.

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The prisoners in their defence allege that the deceased died of illness, and that the charge has been brought against them through enmity and ill-will.

The plea is not substantiated by proof, such as to invalidate the direct evidence for the prosecution.

The *futwa* finds the prisoners guilty of culpable homicide and declares them liable to *seeasut.*

Sentence passed by the lower court.—Seven (7) years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The Court observe that the prosecutor from the first, charged the prisoners with the murder of his brother by means of pressure with sticks placed beneath and above his throat, and by thrusting a bamboo stick up his fundament. Notwithstanding this clear and distinct charge, the inquest on the body, held by the darogah, is silent on both points; and though the eye-witnesses repeated these two distinct facts in their depositions before the magistrate, and the civil surgeon in his letter adverted to neither of them, but accounted for death by rupture of the spleen, the magistrate most unaccountably neglected immediately to take the deposition of the civil surgeon with respect to these two alleged facts. Had the *post mortem* examination been carefully conducted, and the result shown that death ensued from pressure on the neck, and the rupture of the spleen caused by the insertion of the stick into the body of the deceased, the crime of the prisoners would have undoubtedly amounted to murder. None of these important omissions appear to have attracted the attention of the sessions judge, who has consequently concurred with the *futwa* in convicting the prisoners of culpable homicide only, and passing the very inadequate sentence of seven years' imprisonment for such atrocity. The Court, however, cannot interfere in such a case, and therefore simply reject the appeal, with the expression of their sentiments of dissatisfaction at the result of the investigation in all its stages.

PRESENT

J. H. PATTON, Esq., *Judge.*

GOVERNMENT

versus

HOLLAY MUSSULMAN.

Hooghly.

1855.

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Case of HOLLAY MUSSULMAN.

The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. J. R. Ward, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 10th July, 1855.

Remarks by the additional sessions judge.—The prisoner confessed that he had been a dacoit, and he gave a detailed account of twelve such crimes to the dacoity commissioner. It was expected that he would abide by that statement, and he was therefore committed on the general charge of having belonged to a gang of dacoits, without any specification of the dacoities, which would, but for his confession, have been laid to his charge.

Witness No. 1, deposes to five different dacoities, upon which he and the prisoner were engaged. The dacoities described by him are—

1. A dacoity in a Dhoby's house in Dogachea.
2. A dacoity in the house of a Mussulman in Shaishtanuggur.
3. A dacoity in a Mussulman's house in Bankra.
4. A dacoity in the house of a Kazee of Sultanpore.
5. A dacoity in the house of a Brahmin in Gowal Chuppra.

Some of these dacoities were originally concealed, but the subsequent inquiry into these, and the enquiry at the time into the others which were not concealed, has established that these crimes did really occur. The approver's account is perhaps the most truthful one of any, and a verbative translation of it, which I herewith furnish, will therefore be as good a way as any, of showing the nature of the cases, at the same time that it will render a comparison of the approver's statements with the records and the admissions of the prisoners, easier of accomplishment.

Evidence of Tummeizooddeen approver witness No. 1.

I know the prisoner, I have committed five dacoities with him. Eight or nine years' ago, I was with him in a dacoity in Dogachea in a Dhoby's house; Dooloo and Sonaie were the Sirdars, Neeloo was the spy; Dooloo's cousin, Ameen, told me of it, two days before the dacoity. On the evening of the day fixed, I left home for Dooloo's house. He and I live in the same village. After evening he and I started, and going to Pipla west *mat*,

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across the river, we found all the dacoits there gathered together. Every one being assembled, we left and went to a bower on the river-side, under a *pepul* tree, where we sat down and smoked. Leaving the place again we went to the east *mat* of Dogachea and having cut bamboos on our way there, we prepared our *mussals*, our sticks and clubs. Sona aud Neeloo went to look at the house. Coming back, they said it is all right. We then adjourned to a tank east of the *baree*, where we made *poojah*, then we proceeded to the house; Soobul scaled the wall, and undoing the door, we went inside; Dooloo, Sona, and Ameer were on *ghatee*, the rest and I among them, went inside. We broke open the boxes, and plundered the cash and jewels found in them. There were two women in the house, they ran out and no one injured them. The owner was asleep in the verandah of the west house. We caught him, Soobul hit him with his *latee*, he said my money is buried in the verandah of the north house. We dug for it, but could not find it. Villagers threatened us, and we came away. Arriving on the east *mat*, we were all searched, Dooloo said, "I will keep the property and to-morrow I will sell it and pay you all. So he took every thing, I and Dooloo carried it away. We then went each to his own house. Two days after, Dooloo gave me five rupees. There was 50 Rs. worth plundered. The prisoner Soobul, Sona, Dooloo, Ameer, Rajnath Roy, Kettur Poddar and Neeloo, were among the dacoits. We were twenty or twenty-eight men in all.

Five or seven years' ago I was on a dacoity in a Brahmin's house in Gowal Chuppra, Sona and Anund were the Sirdars, Neeloo was the spy. Anund came to my house two or three days before the dacoity and at evening took me to Sona's house, when he informed me that we were to go to Gowal Chuppra to commit the dacoity, I agreed and came home. On the evening of the day appointed, I went to Sona's house. He, Anund and I live in the same village. Sona said that dacoits will gather on the Dabar *mat*, come along there. I, Anund and Sona started for the Dobar *mat*, which is east of our village, and on arriving, we saw all the dacoits collected there and sitting, quitting that we arrived at Kagee *hat* in Dangunna village, where we sat and smoked. We then proceeded to a date garden west of a Brahmin's house, where we cut bamboos out of a clump, and made our *mussals* and weapons. Then going to within two or three *russees* from the house, we made *poojah* on a bit of fallow ground. This concluded, we went straight up to the *baree*. It was ten or eleven at night. We broke the door to pieces with our *koolharee* and entered the premises. Anund, Sona, and Gora were the *ghattees*, rest went inside. I did not go inside, but I held a *mussal* where the *ghateedars* were. After the lapse of one or two *ghuntahs*, the dacoits came outside. We left all together, and going to Kagee *hat*, by way of the south-east

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mat, we had a search. Sona and Anund took all the *mal*, said, we will sell it and give each his proper share of the money. They took the *mal* accordingly. We went home; two days after Sona gave me nine rupees. There were in cash and jewels 30 Rs. No one was caught or hurt. The prisoner, Sona, Anund, Mookeem, Mahtabdee, Gora, Sunkhur, Teetoo, Madar, Soobul, were among the dacoits who mustered eighteen or nineteen men or thereabouts.

Seven or eight years' ago I was on a dacoity in Shaishtanuggur in a Mussulman's house, Sona and Mookeem were the Sirdars, the former was the spy. He informed me of it at 12 P. M. of the day it took place. I agreed to go and Muddoo called for me at two *dunds* of the day remaining He and I went together and arrived at close of day at the Dadkalee south *mat*. Several dacoits were sitting there. We went along with them three or four *coss* to a tank on the Goldea Aton *mat*. It was then four or six *dunds* of night. There were more men sitting there. All joined together, and went to a date *bagan* near the dacoity village. There was a clump of bamboos there, from which we cut bamboos and got ready our sticks and *mussals*, &c. We then moved on to a cattle path, opposite the Mussulman's house, where we made *poojah*, and on its conclusion, we walked up to the house. The sudder entrance had no door, so we got in at once, Mookeem and Sona were at the *ghattee*. The rest went inside the house, having pushed aside a *tattee*, which served as a door. We saw the owner inside, who with his wife and children were asleep, the latter were allowed to run away. We seized the man and began to use him roughly; he said, all I have is in the boxes, Muddoo had some of his own keys With them be opened the box, 30 Rs. cash and *thals* and *ghutees* and a bundle of cloth were got out of it. The villagers came and we decamped and went to where we cut the bamboos. There we were searched. The property obtained came to about 40 Rs. worth, I said, I shall not go home, but go to my relative, give me my share. Sona then handed me 6 Rs. Not going to my relative after all, I went ahead of the rest to my own house, I can't say what the rest got. The prisoner Muddoo, Soobul, Sona, Ikram, Manullah, Mookeem, Mahtabdee, and Areef were among the dacoits, I can't recollect the rest; fifteen or sixteen was about the number of the whole gang.

Eight or nine years ago I committed a dacoity in Bankra, in a Mussulman's house. Khoda and Sona were the Sirdars, Tarachand was the spy. Sona told me of it, and the day after, the prisoner Sona, Annund, Teetoo, Gorai, Sookoor and I started together from Sona's house. From there, we went to Khodabux's house in Nobat Katee, where we eat. At evening, we left and proceeded to Kanragachee village. There was that day a *barwaree poojah* in the village, so we remained there that day

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and saw the *poojah*. The next day at 12 P. M., we eat cooked food in that bazar, and at two *dunds* day remaining, we proceeded to the date-garden west of Khoda's house; all the dacoits were seated there. At evening Khoda brought us chhurs, &c. With these we left and went to Bankra *mat*, Tara and Khoda went to look at the house, and coming back, said, "All are not asleep, we must wait a bit," so we waited. After that, proceeding to and sitting in a *khajoor bagan*, near the house, we made *poojah*. At 12 o'clock we went up to the house. There was no door in the entrance, there was no division of inner and outer houses. There was a *pucka* room lower-storied. We went and broke the door of it with *lattees*, and going inside, we saw the son of the owner sleeping with his wife. We caught the son, and beating him and pressing him to give money, he said I have none, my father has it. His father was asleep in the little room adjoining the *boituckhana*. We caught him, brought him to his son and beat him. He too said, "I have no money, there are the boxes, see if there is any in them, and take it if you can find it." So we broke the boxes, and we obtained about 30 Rs. and some jewels. The villagers were crowding round us, so we left. Teetoo, Sonaie and Khoda were the *ghatees*, we came away together, but the villagers followed us. We ran at them, and they took fright and fled. Coming to the east *mat*, the search was made, all the *mal* was taken by Sona and Khoda, who said that they would pay each his share after selling the property. We all went home with nothing; two or three days after, Sona gave me 6 Rs. There were in cash and jewels about 50 Rupees worth. The prisoner Sona, Annund, Teetoo, Gorai, Sookoor, Khoda, and others, whom Khoda brought, were in the dacoity, altogether twenty or twenty-five men were engaged in it.

Five or six years ago I committed a dacoity in Sooltanpoor, in the house of a Kazee. Dooloo, Sona and Annund, were the Sirdars, Hanneef was the spy. Dooloo told me the day before the dacoity. At evening of that day I, Annund, and Ameer, left together and going to the east *mat* of our village, we fell in with Teetoo and Damoo, who were sitting there. They said we too are going on the dacoity. We took them with us, and went to Chundunpoor east *mat*, where we sat down to see if any others would be coming up, Deendyal, joined us soon after. Taking him with us, we came to Madhub Koloo *hat*, all the rest of the dacoits joined us there. Going from there, we went to Poulee bazar, and cooked food and eat it. At two *dunds* of the day remaining, we quitted that place, and going at evening to the Balta tank bank, we sat down there. All who were to come joined us there. Going from there, we went to Sooltanpoor *mat*. Adjoining the village was a clump of bamboos, under which we sat, Sona and Hanneef, then went to look at the house. They came back and said, the inmates are awake yet; we waited a little

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and employed ourselves in making up *mussals* and *chhurs* out of the bamboos we had cut on the way. Leaving that after a space, we went and sat on a cattle path opposite the house, where we performed *poojah*, and at twelve, we began the attack. Sona scaled the wall and undid the door, when we all entered. Dooloo, Sona, and Annund, and Damoo were the *ghatees*, the rest and I among them, went inside to plunder. The door was smashed with a *koolharee*, and getting inside the house, we broke open the boxes and secured the cash and jewels they contained. The owner's brother was in that house, we beat him, he said "I have nothing, the owner has every thing." We searched for him, but could not find him. Beating the Kazee's brother, his wife, who was in the house, said "The money is buried under the platform in the north house verandah, go, get it." We went and dug there, but found nothing. After that the villagers coming, we fled, and going to Balta tank, we were searched. Cash and jewels to the value of 2 or 300 Rs. was what we obtained. There was no division, because it was near morning. Dooloo and Annund, took all the *mal*, saying they would sell and give each his portion. Two days after, Dooloo gave me 6 Rs. What the rest got, I can't say. The prisoner Annund, Dooloo, Ameer, Roopekant, Sona, Surroop, Jameer, Manullah, Mokeem, Mahtabdee, Teenoo, Damoo, Kosaie, Moolook, Goverdhun, Bunmalee, Okubdee, were in this dacoity. I can't recollect the names of the rest. We were in all thirty perhaps. Cross-examined, says, I forgot to name the prisoner in the Gowal Chuppra dacoity in my confession to the dacoity commissioner. I did name the prisoner in the Sooltanpoor dacoity to the dacoity commissioner. I have known the prisoner from his youth. He lived in my village which is Googa. He is now a resident of Chitla, has been so for two years. He went away from Googa, because of debt. I have been a dacoit since I was twenty years of age I am now thirty-two. Prisoner's first dacoity with me was the Koojoolee dacoity, which is the same as the Bankra. It occurred, eight or nine years ago, I can't say if prisoner was a dacoit before that. It was Khodabux's *dull*, and Sona Sirdar's *dull*, who committed that dacoity. I was of Sona's *dull*, prisoner was of Sona's *dull ;* Sona had a gang before this in another village, not in mine. When Sona settled in our village, he got up another gang of his own. He began dacoity as soon as he came, none of his former gang came with him, and put up at our village. Before I joined Sona's *dull*, I belonged to Dooloo's *dull*. I can't say whether prisoner belonged to any gang before he joined Sona's. Prisoner is some kind of connection of Sona's, I have not committed any more dacoity with prisoner than the five related by me.

The most important of these cases is the dacoity in the Kazee's house in Sooltanpoor. The prisoner was apprehended

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on the charge on the confession of Sona and Ameer, when the dacoity first occurred. These two persons, together with others, were convicted and sentenced in that case, and are now undergoing their term of imprisonment in the Baraset jail. The prisoner was named by both Sona and Ameer, but their implication being *then* the only evidence forthcoming against him, it was not of course, deemed sufficient, and the prisoner was released by the magistrate. The approver who was also named in that case now supplies the evidence which was wanting originally, and taking that in connection with the prisoner's implication by Sona and Ameer, I have no doubt that he was concerned in this dacoity.

The prisoner admitted it himself; he admitted the four others deposed to by the approver, and seven others besides.

His confession has been attested by the commissioner for the suppression of dacoity in person, and that proves him to have been a dacoit by profession for years.

In his defence on his trial before me, he denies having made any confession at all, and he avers that the witness No. 1, has accused him from motives of enmity because he and the prisoners had frequent disputes, owing to their cattle grazing on each other's fields.

I would convict the prisoner of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.--(Present: Mr. J. H. Patton) The prisoner was named in the Sultanpore dacoity, which took place about six years ago, at the time of its occurrence by two persons, now undergoing their sentence of imprisonment in the Baraset jail. He was also arrested on that occasion but released. The approver, who denounces him as a professional dacoit, was also named in the above dacoity. His evidence goes to prove the prisoner's complicity in five dacoities. Morever the prisoner pleaded guilty before the dacoity commissioner and made a detailed confession before that officer, admitting his participation in twelve dacoities, the Sooltanpore affair among them, the occurrence of seven of which has been established. I convict the prisoner on his confession before the dacoity commissioner, proved by the deposition of that officer, and the evidence of the approver, corroborated by the fact of the prisoner being named and arrested in the Sooltanpore dacoity, and sentence him to transportation for life.

PRESENT:
A. DICK AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT
versus
RAMBHUDDER DOSS.

Midnapore.

1855.

August 17.

Case of RAMBHUDDER DOSS.

The prisoner was convicted on his own confession of being a thug by profession and having belonged to a gang of thugs, and was sentenced to transportation for life.

CRIME CHARGED.—Being by profession a thug, and having belonged to a gang of thugs.

Committing Officer.—Mr. C. H. Keighly, assistant general superintendent and assistant to the thuggee and dacoity commissioner.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 11th July, 1855.

Remarks by the sessions judge.—The prisoner confessed before the assistant general superintendent to having been concerned with others in committing thuggee, and to belonging to a gang of thugs.

In this court he admits this confession to be true and to have been voluntarily given.

It is corroborated by the documentary evidence noted in the margin* and by the confession of Sheikh Meetoo made in 1840, in which he then denounced the prisoner as a thug.

* Cases Nos. 5, 6 and 7.

I see no reason to doubt the truth of the prisoner's confession and that he is, what he represents himself to be, a thug by profession. I accordingly convict him of the charge on which he is arraigned, and recommend that he be sentenced to imprisonment for life in transportation beyond seas.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) This is a trial in conformity with the instructions contained in Circular Order No. 247, dated 22nd September, 1837. It is a case of thuggee, and the conditional pardon promised consists of a portion of the punishment which might be awarded and not of the offence with which he was charged. The prisoner pleads guilty to the charge, and his confession is corroborated by the testimony of approver, who denounced him as thug, so far back as 1840; and by investigations instituted, to ascertain the actual occurrence of the three instances of thuggee, with which he is charged out of the seven to which he has made confession. We convict the prisoner of being a thug by profession, and having belonged to a gang of thugs, and sentence him to imprisonment for life.

PRESENT:

H. T RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

RAM DOSS.

Dacca.

1855

August 17.

Case of RAM DOSS.

The prisoner was convicted of perjury.

CRIME CHARGED.—1st count, perjury, in having on the 5th May, 1855, corresponding with 23rd Bysack, 1262, B. S. intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before the magistrate of Dacca, that his name is Ramsoonder Doss, and that he has no other name, such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case; 2nd count, perjury, in having on the 5th May, 1855, corresponding with the 23rd Bysack, 1262, B. S. intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the magistrate of Dacca, that he had not given evidence for Haranundo in any case, such deposition being false, and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 29th June, 1855.

Remarks by the sessions judge.—The charge, as laid in the calendar, was fully proved by witnesses. Others also stated that the prisoner was known only as Ram Doss.

The prisoner pleaded *not guilty* and said he was called by three different names, and that when deposing the second time, he forgot he had ever given evidence before. He called witnesses who said his name was Ram Doss or Ramsoonder Doss.

The law officer found the prisoner guilty, in which *futwa* I concurred.

The prisoner appears really to be usually called Ram Doss, and to sign or be occasionally called Ramsoonder Doss, but he said he had no other name than Ram Doss. That part of the charge which refers to his having denied ever having given evidence before, is unanswered. It is impossible prisoner could forget the circumstance; especially as the evidence was, on both occasions, given for the same person.

Sentence passed by the lower court.—To be imprisoned for the period of five years, with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The presumption is against the

prisoner, as it is fairly inferrible from his denial of having given evidence on the part of Haranundo in a previous case, that he considered the fact would weigh against the credibility of his testimony in favor of the same party on the present occasion. We therefore see no reason to interfere and reject this appeal.

1855. August 17. Case of RAM DOSS.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

ARAMDEE MULLIK (No. 3,) ANES MULLIK (No. 4,) TURIKULLA MULLIK (No. 5,) SANOO MULLIK (No. 6,) AND ASIMUDDEEN MULLIK (No. 7.)

Jessore

1855. August 17. Case of ARAMDEE MULLIK and others.

Conviction of affray attended with culpable homicide, and the sentence passed by the sessions judge, upheld in appeal.

CRIME CHARGED.—Affray attended with the culpable homicide of Asunuddeen Sirdar and the wounding of the prisoners Nos. 3 and 4.

CRIME ESTABLISHED.—Affray attended with the culpable homicide of Asimuddeen.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Malet, officiating sessions judge of Jessore, on the 22nd May, 1855.

Remarks by the officiating sessions judge.—From the evidence in this case it appears that a man by name Asimuddeen Sirdar was struck on the head with a *lattee*, from the effects of which blow he died.

Witness No. 31, Komoruddeen
,, ,, 33, Shookoor Mahomed.
,, ,, 36, Arshad Sirdar.

The principal evidence for which, viz. that of the native doctor, not being available, I was obliged to content myself with secondary evidence. It is said that on the day before the commission of the crime, a cow, belonging to the deceased, had trespassed on a field of *kelai* belonging to prisoner No. 6; the next day this man, No. 6, and Nos. 3, 4, 5 and 7, proceeded from the part of the village which they inhabited, called Mullik-parah, to the part where the deceased lived, called Sirdar-parah, probably with a view to exact compensation; the evidence goes on to shew that these men all, (with the exception of No. 5,) armed with *lattees*, were standing

Witness No. 2, Roslud Khan.
,, ,, 4, Asalut Khan.
A document and witness
No. 18, Adoytnath Bhose.
,, 19, Shoroop Chunder Chuckerbutty mohurrir.

1855.

August 17.

Case of ARAMDEE MULLIK and others.

Witness No. 2, Roslut Khan.
" " 4, Asalut Khan.
" " 31, Komoruddeen Sirdar.
" " 33, Shookoor Mahomed.
" " 36, Arshad Sirdar.
" " 31, 33 and 36.
" " 2 and 4.
" " 32, KanaiSirdar, &c.

near Asimuddeen Sirdar, who was lying on the ground bleeding from a wound on his head, the fatal blow having been struck, as mentioned above, by No. 6, at the instigation of No. 3, the party of the Mullik's Nos. 3, 4, 5, 6 and 7, were also seen going home in a body still armed with *lattees*, except No. 5. With reference to the other party, several of the witnesses state that No. 8 was armed, but they do not agree with each other as to the weapon; it is shewn that he was at the place assisting his father, the deceased, and some witnesses speak to his and his father using abusive language; against the other defendants, the evidence is so weak, that it is not worth mentioning; it is proved that they were present but that is all. One witness says, that there was a small wound on the head of No. 3, which, if true, must have been inflicted by one of them, but it is not supported; and on being called on to shew the mark, he displayed the cicatrice of a very severe wound apparently many years old; it was stated in the calendar that No. 4 had been wounded, but no evidence was given of it, nor could he shew any sign or mark.

Witness No. 4.

The defendants Nos. 3, 4, 5 and 6, state that it was on account of one of this party, No. 5, being beaten that they went to the place where the crime was committed, and allege that they were beaten by the other party, but that they did not resist; defendant No. 7 tried to prove an *alibi*.

I have already shewn that defendants Nos. 8, 9, 10 and 11 were not in fault, it is therefore needless to enter into their defence.

I tried the case with the assistance of a jury, they found the prisoners Nos. 3, 4, 5, 6 and 7, guilty, and acquitted Nos. 8, 9, 10 and 11, with this finding I entirely concur. Considering all the circumstances of the case and the respective guilt of the parties as shewn by the evidence, viz. that there was provocation on the part of the deceased, that there are not the slightest grounds for thinking that his death was intended, or indeed, that the assault itself was premeditated, I sentence No. 6, to seven years; No. 3, to five years, Nos. 4 and 7, to three years, and No. 5, to one year. All with labor in irons, those under five years to be allowed to commute by a fine of 50 Rs. if paid within one month. I direct prisoners Nos. 8, 9, 10, and 11, to be released.

It appears to me in this case, that it would have been better had the magistrate brought it forward as a case of homicide with Titoo Sirdar, defendant No. 8, as plaintiff.

1855. August 17. Case of ARAMDEE MULLIK and others.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The evidence is sufficient for the conviction of the prisoners. We see no reason to interfere with the sentences passed upon them.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND PAKARAM SHA

versus

GUNGARAM DOSS (No. 4,) AND PETUMBER DOSS (No. 5, APPELLANT.)

Dacca.

1855. August 17. Case of PETUMBER DOSS and another.

The guilty receipt of stolen property was held not to be proved.

CRIME CHARGED.—1st count, theft from the house of the prosecutor of money and ornaments to the value of Rs. 518-12-1½; 2nd count, having in their possession stolen property knowing it to have been obtained by theft; 3rd count, being privy to the above theft.

CRIME ESTABLISHED.—No. 4, possessing stolen property knowing the same to have been so acquired and being privy to the theft, No. 5, possessing stolen property knowing the same to have been so acquired.

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 29th June, 1855.

Remarks by the sessions judge.—The prosecutor stated, that, after securing two doors of his house he went out, and on return went to sleep without observing whether *both* doors were safe or not. The next morning he discovered, that a *mutka*, in which jewellery to a considerable amount was kept, had been broken and the contents carried off. He made inquiry, but applied to the police only four days afterwards. The police darogah seems to have employed some spy, and the property was found in the possession of parties with whom it had been pledged. These persons gave it up, and two of them were made witnesses by the magistrate.

The prisoner No. 4, admitted having received the property from the thieves, and pledged it, as deposed to by the witnesses.

The prisoner Petumber pleaded throughout that he was not aware of the property having been stolen, he having received it from his uncle (the other prisoner) as the property of the talookdars, who were in arrears of rent. He called witnesses, but those, before whom he said he had received the property,

1855. August 17. Case of PETUMBER DOSS and another.

professed ignorance of the matter, and one or two only deposed favourably to the prisoner's character.

The law officer convicted the prisoner No. 4 on the 2nd and 3rd counts, and prisoner No. 5 on the 2nd, in which verdict I concurred.

The prisoner Petumber, according to his own account, received the property of Gungaram. It was valued variously at from Rs. 150 to 230 by the prosecutor and witnesses, yet he only advanced 50 rupees on it, while other parties, acquitted, advanced 100 rupees on articles of far less value. He is a small village gomashtah, quite unaccustomed to transactions even of this extent, and though he gave up the property when called on, and one or two witnesses gave him a good character, this seemed not sufficient to counterbalance the facts proved against him. The manner in which he accounted for possession of the property, shows that he must have been aware that it had not been honestly obtained, whether he may or may not have known of the theft of which it was the produce.

Sentence passed by the lower court.—No. 4, to be imprisoned for the period of five (5) years with labor and irons, No. 5, to be imprisoned for the period of three (3) years with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoner, Petumber, has appealed, he is convicted of possessing stolen property, knowing the same to have been so acquired. This knowledge is presumed by the sessions judge from the fact of the witnesses having valued the property at 150 rupees, while the prisoner had only advanced 50 rupees on it. This is, in our opinion, altogether insufficient to establish a valid presumption of guilty knowledge, and as the acts of the prisoner, in other respects, are opposed to a belief in his guilt, we consider him entitled to his release. The prisoner is accordingly acquitted.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND SOOLEMAN

versus

MUTWAL (No. 9,) AND TUHUL (No. 10.)

Tirhoot.

1855.

August 17.

Case of MUTWAL and another.

The prisoners charged with highway robbery were acquitted, owing to the unsatisfactory nature of the evidence against them.

CRIME CHARGED.—Highway robbery with plunder of property valued at Rs. 95-6.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. F. A. Glover, joint-magistrate of Chumparun.

Tried before the Hon'ble R. Forbes, sessions judge of Tirhoot, on the 4th May, 1855.

Remarks by the sessions judge.—The prisoner, a cloth-merchant, was proceeding, on the evening of the occurrence, from a *hat* held at Laureea to a village called Burwah with a pony, on which were two bales of cloth valued at Rs. 91-6, and cash 4 Rs. inside one of the bales, altogether Rs. 95-6, accompanied by a man and a boy, "Sulamut Allee," and "Khuderoo," the latter aged about ten years (witnesses Nos. 1 and 2,) and had got about half a *coss* west of Laureea, the pony and the two witnesses being in front and the prosecutor behind, when on a sudden the prisoner Mutwal No. 9, whom the prosecutor knew before this, coming up from behind struck the prosecutor a blow with the club on the leg, and on the latter's giving the alarm, the prisoner Mutwal dealt him another blow with his *lattee* on the left elbow and one blow on the head, and on the witness Sulamut attempting to give the prosecutor a *lattee* wherewith to protect himself, the prisoner Mutwal aimed a blow at him also, on which the two witnesses decamped and stood aside. After this, the prisoner Tuhul (whom the prosecutor knew before this also) and another man like him, unloaded the bales of cloth from off the pony and then all three robbers decamped with the property in an easterly direction, and the prosecutor having fallen down senseless, the two witnesses took the empty pony into Burwah, and early next morning the prosecutor having given information at the thannah, the houses of the prisoners were searched, when in that of the prisoner Tuhul a *saree* of coarse cloth was found and identified by both the prosecutor and his witnesses, Tuhul voluntarily confessing his complicity in the robbery in the presence of attesting witnesses.* The two witnesses Sulamut Allee and Khuderoo, (the latter an extremely intelligent lad) saw the whole of the occurrence, and their evidence fully brings home the charge to the

* No. 3, Hurdyal Missur.
,, 4, Bhugwandeen Missur.

1855.

August 17.

Case of MUTWAL and another.

* No. 8, Sheotuhul.
,, 9, Bheechook.
,, 10, Nowrising.

accused, while two persons* saw the two prisoners and another person following the prosecutor after he had left the Laureea bazar. One person too deposed that he saw the prisoner Mutwal's wife, the prisoner Tuhul, and a person named "Pudarut," the two latter carrying some bundles of cloth, going from east to west, and on his asking them where they were going, they said that a Bunnya having been robbed, the thannahdar had come and they were running away for fear of their houses being searched.

The prisoners pleaded *not guilty*, both in the foujdary and this court, Mutwal only pleading in his defence that he had been unjustly implicated and he only called witnesses to speak to his previous good character, the record showing that he had before been imprisoned on default of security for good conduct on a charge of dishonest livelihood. The defence of the prisoner Tuhul was, that the property found in his house had been put there, and that the darogah had extorted his confession by beating him, but the witnesses, whom he called, knew nothing.

As the guilt of the prisoners was clearly established, I concurred with the *mooftee's* convicting *futwa*, which finds both prisoners guilty of the robbery (the beating though proved, not forming any part of the charge,) and they have been sentenced as follows:

Sentence passed by the lower court.—Each to be imprisoned for seven (7) years and one year in lieu of corporal punishment, in all eight years, with labor in irons and in banishment, with fine to be levied from the prisoners jointly under the provisions of Act XVI. 1850 to the extent of the value of the property unrecovered.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) On reference to the mofussil papers, we find that Mankee Gorait, who first gave intimation at the thannah of the robbery, stated that the prosecutor had not mentioned the name, or said he recognised any of the robbers. The prosecutor, the day following, in his first deposition named the prisoner No. 9 only, and said that the other two persons were unknown to him. Before the magistrate he swore that both prisoners were well known to him, and that he distinctly recognised them both. The witness Salamut Allee also states, that he recognised them both, and that both were well known to him. It is therefore utterly unaccountable that under these circumstances he did not name the prisoner No 10, in the first instance. The darogah's story regarding the man Nourun Rai, suspecting prisoner No. 10, and causing his house to be searched, the finding of a single piece of cloth outside the house, and every thing else removed, and a *lattee* sworn to by the prosecutor and Salamut as the identical

one, with which prisoner No. 9, had beaten him; and lastly the alleged confession of prisoner No. 10, are so full of suspicious circumstances as to be undeserving of the least confidence. Therefore, dissatisfied with the evidence against the prisoners, we acquit them and order their immediate release.

1855.
August 17.
Case of MUTWAL and another.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS. *Judges.*

GOVERNMENT PROSECUTOR
versus
MOOKTARUM MADDUCK.

Hooghly.
1855.
August 17.
Case of MOOKTARUM MADDUCK.

The prisoner was convicted of perjury.

CRIME CHARGED.—Perjury in having on the 1st February, 1855, deposed on solemn affirmation, before the deputy magistrate of Jehanabad, in a certain case of assault, &c., in which one Mothoor Nundee was plaintiff, and Dwarkinath Singh was defendant, that *the* Dwarkinath Singh then present in court, was not *the* Dwarkinath Singh, to whose ordering the other defendants to assault the plaintiff he had sworn in a former deposition in the same case made before the former deputy magistrate of Jehanabad, on the 20th March, 1854, and that there was another Dwarkinath Singh, named *neta* Dwarkinath Singh, to whom he had alluded, there being in effect, no other Dwarkinath, who had ordered the other defendants to assault the plaintiff, than the *one* then present in court; and his statement in the former deposition having reference to *him* and to no other, and such deposition being therefore wilfully and deliberately false, on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Moulvee Abdool Lateef, deputy magistrate, exercising the full powers of a magistrate of Jehanabad.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 16th June, 1855.

Remarks by the additional sessions judge.—The prisoner gave evidence in a case in which Dwarkinath Singh was charged with having ordered an assault. The prisoner swore that the accused was present and that he saw him.

Dwarkinath Singh was then not forthcoming, but having been recently made to appear, the prisoner was called upon to identify him. He said he was not the man he alluded to in his former deposition. It proving upon investigation that the party confronted with the prisoner was the man who had ordered the assault, the prisoner was charged with perjury and

1855. August 17. Case of MOOKTARUM MADDUCK.

confessed it; but pleaded in excuse that he was ill when he said he could not identify the prisoner.

The case is proved against the prisoner by the witnesses examined at the trial, and the prisoner makes the same futile defence and excuse as he did in the lower court.

I convict him, in agreement with the *futwa*, of perjury, and sentence him to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoner admitted in the foujdary and before the sessions, that the Dwarkinath Singh, put on his trial, was the person to whose presence he had previously borne witness, and that he had subsequently swerved from that statement from defect of vision when confronted with the prisoner. He likewise admits that he had been instigated to the falsehood by a *mooktar;* the perjury is clearly proved and we see no reason to interfere.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KASSEM ALLEE BURKUNDAZ.

24-Purgunnahs. 1855. August 17. Case of KASSEM ALLEE BURKUNDAZ.

The prisoner was convicted of perjury.

CRIME CHARGED.—Perjury, in having on the 1st of May, 1855, falsely deposed on solemn affirmation (taken instead of an oath, under Act V. of 1840, before the magistrate of 24-Purgunnahs, in the case of Ryecomul Debea *versus* Kaleecoomar Roy, charged with rape) that the two brahmans told me "That two persons will oppress us, of which the jemadar knows all the particulars, and for this reason we are come here. Excepting this, they (the brahmans) told me nothing. The brahmans told me nothing whatever about the rape of Ryecomul, and I told (or reported) nothing of such an occurrence to the jemadar." Such deposition being false, and having been intentionally and deliberately made, on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. H. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Purgunnahs, on the 18th May, 1855.

Remarks by the additional sessions judge.—Witness No. 1, Okhoychunder, states that he lodged an information of rape of his sister against a certain wealthy man before the prisoner, who was at the time in charge of a police *farree.* Witnesses

Nos. 2 and 3, were with the above witness when he gave the information. 1855.

The witness No. 1, then went and filed a written petition in the magistrate's court against the party above alluded to for rape, and named the prisoner as a witness, that he gave immediate public information of the crime.

August 17. Case of Kassem Allee Burkundaz.

On the prisoner appearing to give his evidence before the magistrate, he denied on oath that the witness No. 1, informed him that a rape had ever been committed by any one on his sister, and he also denied that he told the *farree* jemadar that any such occurrence had been reported to him.

This appearing to the magistrate to be a false statement, he has committed the prisoner for perjury

Witnesses Nos 1, 2 and 3, prove that the prisoner was officially informed that Kaleecoomar Roy had violated the sister of witness No. 1.

Witness No. 4, Shuriotoollah, the *farree* jemadar, deposes that the prisoner reported to him on the same day that he was himself informed of it, that an information of rape had been lodged before him by witness No. 1.

Witnesses Nos. 5 and 6, prove the deposition on oath of the prisoner, wherein he denied that witness No. 1, complained to him that his sister had been violated.

The prisoner denies that any charge of rape was made to him, or that he made any report to that effect to the police jemadar.

The *futwa* convicts the prisoner of perjury.

A charge of rape was under investigation by the magistrate. It is material to the issue of that investigation what the prisoner knew about it. In stating that he received no information of it from parties interested in the case, and that he made no report that any information of rape had been preferred to him, he stated what was calculated to bring discredit on the charge of rape. If his denial on oath, that any such information had been given to him, is proved to be false, there is no doubt the prisoner is legally guilty of the crime of perjury. That he was publicly informed of the rape; that he reported it to the jemadar; and that he afterwards denied these things, are proved to satisfaction by the deposition of witnesses.

I convict the prisoner of perjury, and sentence him to three years' imprisonment with labor in irons

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) There seems no reason to doubt the evidence in this case, by which it is clearly proved that the prisoner was informed of the cause of complaint, preferred by the witness, No. 1, against Kaleecoomar, and afterwards denied on oath that such information had been given to him. We reject the appeal.

PRESENT:

A. DICK AND J. H. PATTON, ESQS. *Judges.*

GOVERNMENT AND OTHERS

versus

DHUNNEE TEWAREE (No. 3,) AND CHOOLHUN OPADHIA (No. 4, APPELLANT.)

Behar.

1855.

August 23.

Case of CHOOLHUN OPADHIA and another.

The prisoner was convicted as an accomplice in culpable homicide, he having evaded arrest at the time when other prisoners were tried of the offence.

Appeal rejected.

CRIME CHARGED.—1st count, being accomplices in the wilful murder of Koorban Allee, deceased; 2nd count, beating Wuzeer Allee.

CRIME ESTABLISHED.—Being accomplices in the culpable homicide of the deceased.

Committing Officer.—Mr. F. C. Fowle, magistrate of Behar.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 14th May, 1855.

Remarks by the sessions judge.—This is a supplementary trial to that originally reported, Printed Decisions, 27th November, 1852, page 770.

"The prosecutors and prisoners are invalid soldiers, or their descendants residing in Inglis Fidrukpore; Wuzeer Allee, prosecutor, is a pensioned native doctor, and the deceased was his nephew and adopted (only) son. Bad feeling had shown itself between the Hindoo and Mussulman residents of the place, previous to the occurrence under trial, and complaint of which, though not pursued further, was made at the thannah on 6th May last, by one Jumad Allee, in whose house meat being partaken of on the occasion of a marriage, Kunhye (prisoner No. 4,) Thakoor (prisoner No. 5,) Surnam (prisoner No. 6,) and Diaram (prisoner No. 9,) and other Hindus of the village, violently upset the ceremony and maltreated him. The two prosecutors and Zoolfun Khan (witness No. 1,) were named as witnesses to this complaint.

"Consequent on the bad feeling thus engendered, the tale for the prosecution proceeds, that on the morning of the 12th May last, the deceased accompanied by Zoolfun Khan (witness No. 1,) was returning home from the field, at some distance from the village, and the prisoners and others armed with clubs had passsd in a body before Wuzeer Allee's doorway, abusing him as they did so, as they had already done to the other prosecutor, Musrutoollah, and on seeing the deceased in the distance, Diaram (prisoner No. 9,) called out this is the '*shikar*' (game) 'beat' on which surrounding him, Kunhye (prisoner No. 4,) and Thakoor (prisoner No. 5,) killed him on the spot by violent blows on the head, whilst Surnam (prisoner No. 6,) and Govind (prisoner No. 7,) and another absconded, struck

1855.

August 23.

Case of
CHOOLHUN
OPADHIA and
another.

him whilst on the ground. On the father, Wuzeer Allee, running up, Kunhye, Thakoor, Surnam and Govind, Luchmenarain (prisoner No. 8,) Ramdehul (No. 10,) and another absconded, also beat him severely, the marks on his person being mostly on his hands and feet, both right and left, and on the back."

The evidence for the prosecution now depose to both the prisoners having taken an active part in the riot, but their original depositions on every occasion, simply named them as present, aiding and abetting, and I also find both distinctly named in Jemad Allee's complaint.

Witness No. 1, Zoolfun Khan.
" " 2, Nuzur Allee Joolaha.
" " 3, Sheikh Bhella.
" " 4, Naroo Joolaha.

The prisoners plead *not guilty*, pretend they have never absconded and have been all along at the village on friendly terms with the prosecutors, and set up *alibis*, in support of which, they cite a host of witnesses. Dhunnee Tewaree's witnesses denied him altogether, but Choolhun's did their best to prop up a most improbable story of his being in a village on the road-side, when the body passed through on its way to the thannah, where immediately afterwards he was named as one of the rioters.

The jury unanimously acquit Choolhun on both counts and convict Dhunnee on the second. I so far differ that attaching no credit to Choolhun's *alibi*, I convict both prisoners as accomplices in the culpable homicide of Koorban Allee and have sentenced them as follows.

Pursidnarain of Sindhwaree, Behar.
Soomut Doss of Bar, Patna.
Syud Fuzul Kurreem of Bareedpore ditto.
Syud Ameer Ahmud of Umtooha, Behar.

Sentence passed by the lower court.—To be imprisoned each for three (3) years and to pay a fine of 25 Rs. on or before the 13th of June, 1855, in default of payment to labor until the fine be paid or term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) On referring to the original deposition of the prosecutor, we find that he distinctly named the prisoner as among the rioters, and again named him as one of the last who struck him before he became senseless. The darogah also reported him as absconded. We see no reason to interfere with the conviction and sentence passed on the prisoner.

PRESENT:

A. DICK, B. J. COLVIN AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT ON THE PROSECUTION OF SANGSANG GARROW

versus

SIDANG GARROW (No. 1,) DANGA GARROW (No. 2,) RAMSINGH GARROW (No. 3,) CHUNG GARROW (No. 4,) AND GILJANG GARROW (No. 5.)

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The confession of the prisoner which was held to be the most trustworthy, was adopted.

CRIME CHARGED.--1st count, dacoity attended with the murder of Khamring Garrow and two others, committed in the house of the deceased Khamring, from whence property to the value of Rs. 97-10 or thereabouts, was plundered on the night of the 26th of March, 2nd count, receiving the plundered property knowingly.

Committing Officer.—Captain W. Agnew, magistrate of Gowalparah.

Tried before Major H Vetch, deputy commissioner of Assam, on the 21th April, 1855.

Remarks by the deputy commissioner. -It appears that the prosecutor is the brother-in-law of the deceased Khamring, own brother of Khamring's wife the deceased Nakzi and that the deceased child Ocksang (aged six or seven) was their *natonee*, and that the dacoity and murders of these three persons took place on the night of the 24th March, at a settlement composed by Garrows and Rabhas, within two or three miles of the station of Gowalpara, the persons murdered and the prisoners, being all of the former class. The prosecutor states that he was not informed of what had happened until next day, when (at about ten and half A. M.) on going to the spot, he saw on the path about thirty paces from Khamring's house, the dead body of his sister Nakzi lying (face downwards) with a severe spear-wound on the upper part of the back, and a cut from a *lumbarree* or Garrow sword reaching from the neck to the ear. On entering the house he saw the dead bodies of Khamring and the girl Ocksang, the former had a deep spear-wound in the breast, also another lower down, but in neither had the spear passed entirely through the body, there was a wound in the head as if from the blow of a *lattee*, which had smashed the skull and exposed the brain. On the body of Ocksang there was a cut from a *lumbarree* which had not quite divided the neck, but reached to the bone, and another on the upper part of the head reaching to the ear, and one of her hands nearly cut off, whilst the house had been rifled of all the property.

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Prosecutor at the time had no suspicion of who the murderers were, but having given notice to the police, the prisoner Sidang was apprehended (it is elsewhere stated from his frightened appearance) confessed, and implicating the others, led to the apprehension and the discovery of part of the plunder with Chang No. 4.

The prisoners No. 1, Sidang, No. 2, Danga, No. 3, Ramsing, pleaded *not guilty* to the charges.

No. 4, Chang Garrow, pleaded guilty.

No 5, Geljang Garrow, pleaded guilty as accomplice, but not to the commission of the murders; Sidang before the police confessed to having been one of the gang, and to having received six rupees of stolen property as his share of the plunder, and which he gave up, but he denied having entered the house or taken any part in the perpetration of the murders. Through his implication the other prisoners were apprehended. He again confessed to the same effect before the magistrate and had no defence to offer before the jury court.

No. 2, Danga Garrow in like manner confessed before the police and magistrate, and to having received eight rupees as his share of the plunder and which he surrendered; he likewise denied having entered the house, or had any hand in the murders, but in his defence before the jury he retracted his confessions and pleaded *alibi*.

No. 3, Ram Singh similarly confessed, and to having received eight Rupees, one of which he gave up to the police, but during the preliminary investigation before the joint-magistrate, he recanted his confessions, saying he had been pursuaded by No. 2, Danga, to make them; he did not however adduce any evidence in the foujdary court to clear himself Before the jury he called witnesses to prove *alibi*.

No. 4, Chang Garrow confessed before the police, and there admitted to having despatched Khamring with his spear after he had been cut down by one Chamaroo (not apprehended) and implicates No. 5, Giljang. He repeated his confessions before the magistrate, but endeavours to palliate his having thrust his spear into Khamring by saying he was then dead, he exhonerates prisoners Nos. 1, 2 and 3, from all share in the crime, and denies that money formed any part of the plunder, or that they received any; he makes no defence.

No. 5, Giljang in his defence merely repeats, that although he was present he took no active part in the murders.

No. 1, Dirmang.
„ 2, Andaroo.
„ 3, Salging.

The witnesses Nos. 1, 2 and 3, corroborate the prosecutor's statement and prove the *sooruthal*.

No. 3, Salging again.
„ 4, Chooksee.
„ 5, Thasang.

The witnesses Nos. 3, 4 and 5, prove the apprehension of the prisoners No. 1, Sidang, No. 2, Ganga, No. 3, Ramsing;

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their confessions before the police, and their giving up the money which they said they had received as their share of the stolen property.

The witnesses Nos. 6, 7 and 8, prove the apprehension of the prisoners No. 4, Chang and No. 5, Giljang the confession of the former, the finding of two spears in their house, and the production by the latter of the articles Nos. 4 to 19, from the jungle in the vicinity of the house occupied by these two prisoners. Again witnesses Nos. 1 and 2, prove these articles to have belonged to the deceased.

No 6, Saugman.
,, 7, Geerdah.
,, 8, Keerkeet.

No. 1, Dirmang again.
,, 2, Andaroo again.

The witnesses Nos. 9, 10 and 11, prove the confessions made by the prisoners Nos. 1, 2, 3 and 4, before the magistrate, witness No. 12, deposes to the articles Nos. 4 to 19 having been brought home by her son the prisoner No. 4, Chang, and to his telling her they had been obtained by the murder of the deceased, also that of the weapons produced in court, one spear belongs to No. 4, Chang and the other to No. 5, Giljang, whilst the *lumbarree* or sword belongs to the absent Chamaroo, that Giljang had told her that he had killed Nakzi, that No. 4 had killed Khamring and that the absent Chamaroo had a hand in all three murders.

No. 9, Nabun.
,, 10, Dhensingh.
,, 11, Meittra.
,, 12, Rungsay Garrowanee.

Defence.— In support of the defence of *alibi* set up by No. 2, Danga, five witnesses depose to have taken shelter at his house during the night of the murder, and that he did not leave home during that night, that the house was distant about four or five arrow flights from that of the deceased.

In support of a similar defence on the part of No. 3, Ramsing four witnesses depose that that prisoner passed the night of the murder in the same house with themselves, that they are not acquainted with the locality of the murder, but the magistrate in his English letter states that it is distant three or four hours' journey.

Opinion of jury and magistrate.—The jury were unanimous in giving a verdict of guilt against No. 4, Chang, as principal in the dacoity with murder, and against Nos. 1, 2, 3 and 5, Sidang Danga, Ramsingh, Giljang. The magistrate would convict No. 4, Chang and No. 5, Giljang as principals, and No. 1, Sidang and No. 2, Danga of being accomplices, and acquit No. 3, Ramsing and would recommend that Nos. 4 and 5 should suffer death, and that Nos. 1 and 2, be sentenced to transportation for life.

Opinion of deputy commissioner.—Against the prisoner No. 4, Chang, we have his confessions before the police and magistrate, only differing in as much as in the former, he admitted to hav-

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ing despatched the deceased Khamring, after he had been cut down by Chamaroo, whilst before the magistrate he endeavours to exculpate himself of the murder, by saying that Khamring was already dead when he thrust his spear into his body; we have the evidence of his mother to prove his bringing home the articles Nos. 4 to 19, and telling her that they had been obtained through the murder of deceased, and in company with Chamaroo and prisoner No. 5, Giljang, is corroborated by the production of these articles by No. 5, Giljang who lives in the same house with him, all of which are proved to have been the property of the deceased. I am therefore of opinion that there can be no doubt of his guilt as a principal in the dacoity attended with the murder, and I would convict him, the prisoner No. 4, Chang accordingly, and recommend that he be sentenced to suffer death by being hanged. Against the prisoner No. 5 Giljang, there is his having pleaded guilty as an accomplice before the jury, but denying taking part in the murders, with a repetition of the same as his only defence; his production of the articles of stolen property Nos. 4 to 19 from the jungle where they were secreted, and what witness No. 12 says he told her in respect to the murder, and I would convict him also of the dacoity attended with murder, and recommend that he be sentenced to be imprisoned for life in transportation with labor in irons.

Against the prisoners No 1, Sidang, No. 2, Danga and No. 3, Ramsing, we have their confessions before the police and Magistrate, to their having gone forth with Nos. 4, 5 and others, and that they were employed as watchers when the crimes were perpetrated and their disclosure which led to the apprehension of Nos. 4 and 5, their delivering up of money which they said was their share of the plunder; on the other side we have the retracting by No. 3 of his confession during the preliminary investigation, the denial of all three before the jury, and the declaration of the prisoner No. 4 that none of them were of the gang, and that no money was got or given to them. No. 2 Danga in having produced five witnesses who depose to having passed the night of the murder in his house, and that he did not leave it, and four by Ramsing who similarly depose, both these pleas of *alibis* are, I think, deserving of little trust, as they were not brought forward till the very last, and the witnesses were not examined until nearly a month after the perpetration of the crime, No. 3 is also intelligent for a Garrow, as it appears he can read and write Bengali, and no sufficient reason is given by any of them for making these confessions if they were false. I would therefore rely on their confessions as far as they go, and convict the prisoners No. 1, Sidang, No. 2, Danga, and No. 3, Ramsing of being accomplices in the crime, and would recommend that No. 1, Sidang and No. 2, Danga should each be sentenced to

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fourteen (14) years' imprisonment with labor in irons in banishment and that No. 3, Ramsing, his youth considered, should be sentenced to (7) years' imprisonment with labor in irons in banishment.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick, B. J. Colvin and J. H. Patton).

Mr. A. Dick.—The confession of Chang No. 4 and of Giljang No. 5, at the trial, and the finding of the plundered property in their houses, prove their presence and participation in the dacoity attended with murder. Chang has made there different statements in his confessions, as to the part he took in the murders. At the thannah, he said he did not strike the deceased until Chamaroo threatened to kill him, if he did not, after having himself cut him down; and then he thrust his spear into deceased, and he died. Before the magistrate he said he thrust the spear into deceased after he was dead. And in the sessions before the jury at the trial, he thrust the spear into deceased when he was dying. It is to be regretted, that the judge or jury at the trial, did not point out to him the important discrepancies, and require him to state which was the truth. As it is, he has, I think, a right to that interpretation of his meaning, which is most favourable to him; and that is, that he thrust the spear into the body of the deceased under the threat of being killed himself, either when the deceased was dying, or was already dead. He says too in his last confession, that he and No. 5, Giljang and Chamaroo, went to rob, and not to murder; but as they were taking out of the house the last of the property, Khamring awoke, and then Chamaroo killed him, his wife, and child.

The guilt therefore of the two prisoners Chang No. 4, and Giljang No. 5, appear from their confessions to be equal. Both accompanied Chamaroo, both shared in the spoil, and both assisted in the robbery: the only difference being, that Chang entered the house with Chamaroo, while Giljang remained outside, and Chang thrust his spear into the body of Khamring out of dread of being himself cut down by Chamaroo. I would therefore convict both Chang and Giljang of being accomplices in the dacoity with murder, and sentence both to transportation for life.

I concur with the commissioner in the conviction of the prisoners Nos. 1, 2 and 3, and would sentence them as recommended by him. This is a most difficult and extraordinary case. We have three men confessing to being present at the dacoity and the murders, and other two confessing to being accomplices in the crimes, and declaring the innocence of the other three; although they themselves were apprehended on their statements. And again a man twice denying his guilt before the police and the magistrate, and then confessing it before the jury court!

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Mr. J. H. Patton.—The report of this case discloses one of those barbarous murders, which occasionally occur among the hill tribes of Assam. The unfortunate victims were an aged couple, man and wife, and their grand-daughter, a child of seven years old, and the object of the murder was plunder. The evidence which consists entirely of the confession and admissions made by the prisoners at the several stages of the case, goes to show that the principal actors in this tragedy were the prisoners Chang Garrow No. 4, Giljang Garrow No. 5, and a man of the name of Chamaroo, who has hitherto evaded arrest. With exception to the prisoner No. 5, all had made admissions of crime to a certain extent before the police, the magistrate, and the sessions, or as it is there designated, jury court, he, before the latter only. The purport of the confessions of the prisoner No. 4, is to my mind conclusive of his guilt of actual participation in the murder and robbery. He states that Chamaroo first entered the house and cut down the inmates, and that he followed and plunged his spear into the body of the male deceased Khamring, which completed the work of destruction with him and he expired. It is true that the prisoner varies his recital in some respects before the police and the magistrate, touching the part he took in the affair, asserting in one place that he was induced to spear Khamring from the intimidation of his associate Chamaroo, and in another that life was extinct when he struck Khamring with his spear, but the record distinctly shews that when before the jury court, the last tribunal at which he was required to appear to defend himself and shew cause why his life should not be forfeited for the life of him whom he had slain, he discarded his former subterfuges and unreservedly admitted that his hand had dealt the blow which directly deprived Khamring of life. Besides this, a moment's reflection will show the fallacy and disingenuousness of the self-excusing statements above made by the prisoner, by the proof of the utter irreconcileableness of the two facts asserted by him, viz. that Khamring was dead when he speared him, and again, that he was induced to spear him in consequence of Chamaroo's threats to cut him down for standing by and not taking part in killing Khamring; pleas, so obviously false and dishonest, cannot, in my opinion, make in favor of the prisoner under any circumstances. The prisoner also pleaded guilty to the robbery, and part of the plunder was found in his house, I convict him as a principal of the first degree in this cruel and wanton murder attended with robbery and would sentence him to suffer death. The admission of the prisoner No. 5, before the jury court, amounts to participation in the crime, to the extent of having accompanied Chamaroo and prisoner No. 4, to the house of the deceased persons, knowing it to be their intention to murder and rob them, and of

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standing outside the door while they entered the house and effected their purpose. He resides with the prisoner No. 4, who repeatedly mentions him in his confessions as being actively engaged in the murder and robbery, as do the other prisoners. I consider the prisoner Giljang Garrow No. 5, guilty of being a principal in the second degree and would sentence him to imprisonment for life in transportation. I would convict the prisoners Sidang Garrow No. 1, Danga Garrow No. 2, and Ramsing Garrow No. 3, on their confessions and plea of guilty, of having been privy to the crimes, and kept watch during their perpetration, and would sentence the two former Sidang and Danga to fourteen, and the latter Ramsing, on account of his youth, to seven years' imprisonment with labor in irons in banishment.

Mr. B J. Colvin.—I concur with Mr. Patton, in sentencing Chang Garrow, No. 4, to death

I do not consider that we should accept the confession that tells most in his favor, but that which is most likely to be true.

PRESENT:

H. T. RAIKES AND J. H PATTON, ESQS., *Judges.*

GOVERNMENT AND GUNNO TEWAREE

versus

NURSING PANDEY.

Sarun.

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Case of NURSING PANDEY.

The prisoner was convicted of uttering a forged document in attempting to have it registered by the register of deeds.

Appeal rejected.

CRIME CHARGED.—Knowingly uttering a forged document *(tumusook)* bearing date 4th Assar, 1261, corresponding with 14th June, 1854.

CRIME ESTABLISHED.—Same as crime charged.

Committing Officer.—Mr. R. J. Richardson, magistrate of Sarun.

Tried before Mr. H. Atherton, sessions judge of Sarun, on the 18th April, 1855.

Remarks by the sessions judge.—It is proved that the prisoner, calling himself Gunno Tewaree, took the *tumusook* produced in court to the office of the register of deeds to have it registered. He was accompanied by others, and before the register admitted having received the money from the person said to have advanced it. The particulars of the case are noted below, as recorded on the first trial of the prisoner and others in July, 1854. The prisoner was then sentenced, but the conviction was quashed by the court on the 17th March last. I considered that Construction 611, and Act I. of 1848, justified the proceedings held

in the case. After his release, the prisoner absconded, but he has been seized and again committed, and now has no defence at all to make. He, on his former trial, confessed to have acted as alleged. He has now no recollection of what occurred. I agree with the Moulvee, that the deed is a forged document, and that the prisoner is guilty as charged, and I therefore sentence him to seven years' imprisonment with labor from this date, less the period undergone under the first conviction, viz., three months eighteen days, thus making six years eight months twleve days from this date.

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"This is a case of unsuccessful attempt to register a forged bond. On the morning of the 15th June, the defendants, seven in number, went to the registry office with the bond delivered with a petition to the register, Dr. Fleming, by defendants, Nos. 2 and 3, says the registry Moonshee, the other witnesses, two chaprassees, being unble to state who presented it. According to this document, Dharee, defendant No. 1, had advanced 95 rupees to Gunno and Jugput, represented by defendants Nos. 2 and 3, Nursingh and Amee, identified by defendant No. 5, who was examined under Act V. of 1840. The defendants Nos. 2 and 3, stated that they had executed the deed and received the money. but when asked if they could write, they admitted they could not This excited suspicion as the bond was signed by Gunno for himself and Jugput Dharee, defendant No. 4, then stated in answer to a question put to him that Jugput had signed the bond, and on this, defendants Nos. 5, 6 and 8, seeing that the fraud was discovered, ran away from the office, but were pursued by the chaprassees, brought back again and were then sent by the register to me as civil judge and afterwards made over by me under Act I. 1848, to the magistrate, by whom they have been committed for trial. Defendants, Nos. 6, 7 and 8, were not questioned at the registry office, but went with the rest to have the deed registered and were thus accomplices in uttering the deed, and that the bond is a forged document, cannot for a moment be doubted; for the two parties in whose name the deed is executed were at the station on the morning in question, and attended at my office shortly after the defendants reached it. These live in the town of Chuprah, close to Gungapershad, defendant No. 8, and between the two families there have been feuds for the last three generations, and this is the way in which Gungapershad has attempted to pay them off, for there is no doubt that he is at the bottom of the plot. Had Gunno and Jugput actually borrowed the money of Dharee, they would have attended themselves at the registry office, there being no possible reason why, being at the station, they should send two others to personate them. Of the defendants, Nursingh, No. 2, admits having played his part at the instigation of Gungapershad, defendant

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No. 8; defendant No. 3, has no defence to offer in my court; that first of all made being, that he and Nursingh had personated Gunno and Jugput, at their own request as they said they had no time on the morning in question to attend at the registry office. Defendant No. 4, says he advanced the money to Gunno and Jugput, but he admits that the bond was not written at the time, and says that he went to the registry office with defendants Nos. 2 and 3, who undertook to personate Gunno and Jugput; Rada, identifying them, and defendant No. 7, also accompanying them. Defendant No. 5, says he became a witness to the bond at the request of Gunno, who said he had received the money from Dharee, and he admits having identified defendants Nos. 2 and 3, as Gunno and Jugput, by Gunno's desire. Defendant, No. 6, admits having written the bond, produced in court, but says the money was not paid before him, and that the following morning he met Gungapershad on the road, near the register's, when he was seized by the chaprassees and taken to the office, where he discovered, not Gunno and Jugput, who had really borrowed the money, but defendants Nos. 2 and 3, who had personated them. This defendant has no witness to call in defence. Defendant No 7, Genda, says he became witness to the bond at the request of Gunno and Jugput, who said they had got the money, and that next morning two men called at his house, when he was absent and left directions for him to go to the register's, which he accordingly did, and there, to his surprise found not the two who had borrowed the money, but defendants, Nos. 2 and 3, who had come instead. The defence of Gungapershad is, that he happened to be on the road, opposite the register's house, when he saw Rada, No. 5, followed by the chaprassees, and that, on his asking what was the matter, he was himself seized and carried to the register. This account is supported by the evidence of eight witnesses, but no reliance whatever can be placed on their testimony, as Gungapershad declines examining the register himself, whom I offered to send for, if he wished it. Had he not gone with the party, the register would not have committed him. The witnesses may have seen him seized by the chaprassees, for he was caught by them after he had run away from the office with Rada and Bhowanidial, but their statement that he was seized in consequence of enquiring about Rada, is manifestly false. The Moulvee holds the bond to be a forged document and that the defendants are all guilty of being accomplices in the crime of knowingly uttering the forged bond. Rada, No. 5, is also separately charged and convicted of perjury, and his sentence of seven years' imprisonment, with labor in irons, is recorded in that case. The prisoners are sentenced as follows, Genda being imprisoned for five years, as he is an elderly man. In every case of this sort, the severest punishment is absolutely necessary, for the crime established in

this case is one of the greatest that can be committed against society. Men may protect themselves against open violence, but it is hardly possible to guard against villains, who prepare forged documents and then make the judges of the land their instruments of oppression. There can be no doubt for the particulars detailed by Gunno and Jugput, but that Gungapershad has sought to punish them, his enemies, by forging a bond in their names; and had he been a little more careful he might have succeeded. Not one case, in one thousand, I believe, of this sort, is successfully prosecuted, and it is proper that when conviction does ensue, the punishment should be calculated to deter others from the crime."

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Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The proof is clear and direct, and we see no necessity to interfere with the order.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

KRISTOMOHUN SIRCAR.

24-Pergunnahs. 1855. August 30. Case of KRISTOMOHUN SIRCAR.

The prisoner was acquitted, the perjury charged not arising out of the statements alleged to be contradictory.

CRIME CHARGED.—Perjury in having on the 25th November, 1851, intentionally and deliberately deposed under solemn declaration taken instead of an oath, under Act V. of 1840, before Mr. J. R Muspratt, officiating joint-magistrate of Baraset, in the case of Mr. Jafferee *versus* Moteeloll Kurta and others, charged with having assembled and attacked Motbaree grant and severely wounded the prosecutor; he deposed that Moteeloll Khettree Kurta was present in the above illegal assemblage and gave orders; and in having on the 27th December, 1854, again intentionally and deliberately deposed under solemn declaration taken instead of an oath under Act V. of 1840, before Mr. A. Hope, joint-magistrate of Baraset, on seeing Moteeloll Kurta who was then present in court, that he did not see him in the above illegal assemblage. Such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. A. Hope, joint-magistrate of Baraset.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 14th May, 1855.

Remarks by the additional sessions judge.—The prisoner gave evidence in 1851, in a case of riot and plunder committed

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upon Mr. Fraser's property by Boykuntonath Chowdry and his defendant. A man, by the name of Moteeloll Kurta, was named by the prisoner as one of the chief of the party on the side of Boykuntonath Chowdry. He evaded apprehension for a long time, but having been recently caught, he was put on his trial for the riot. The prisoner being summoned to give evidence, whether the person apprehended was the identical Moteeloll named in his former deposition, affirmed on his oath that he was not the same person. It having been proved by other evidence that the real Moteeloll indicated in the original depositions had been placed before the prisoner, and that he had falsely deposed that he was not the Moteeloll originally spoken of by him, he has been committed for perjury.

His defence at the sessions is, that he saw Moteeloll for a moment or so, in a crowd four years ago, and that the person who was placed before him recently, being clad in a different dress to what the Moteeloll he recognized had on, he was unable to swear positively, whether he was the same person or not.

In fact the defence is, that if the person was the same as he saw in the riot, his inability to recognize him now is ascribable to a bad memory and not to any bad motive.

But this defence is a poor one. The man, whom the prisoner was called upon to state whether he was the Moteeloll he named originally or not, has been convicted by the magistrate of the riot, and the conviction has been upheld by the judge in appeal. This result then entirely sets at rest the identity of the Moteeloll recently apprehended, with the person of that name indicated in the depositions of the witnesses originally examined. It was stated by the prisoner in his primary examination that the rioters were engaged in the work of plunder for four or five hours. The prisoner got into a place of shelter and by the very circumstantial account he gave of the affair, it is plain he saw every thing that took place, from first to last. It was not therefore a mere glance that he got of Moteeloll, he spoke of him also as if he was well acquainted with him, and the witnesses* examined at the sessions have deposed that it was the prisoner himself who pointed out Moteeloll to them from among the rioters. The *futwa* convicts the prisoner of the perjury on strong presumption, and I sentence him, being of the same opinion, to three years' imprisonment with labor in irons.

* Nos. 5 and 7.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The charge against the prisoner is, that he has given contradictory statements on a point material to the issue of the case. The first statement is, that one Moteeloll Khetree was present at a certain time and place, and subsequently on seeing Moteeloll Khetree, (three years after-

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wards) he deposed that he did not see *him*, at the time and place abovementioned. These statements are not necessarily inconsistent and contradictory in themselves, and to establish perjury on such a charge, the contradiction should be patent on the statements alone.

The sessions judge argues that the identity of Moteeloll Khetree being established, on evidence adduced elsewhere, and the prisoner having been present where this affair took place, and being acquainted with Moteeloll, his plea of want of memory cannot be received and the perjury is proved against him. But these remarks are not relevant to the perjury as charged, the prisoner, in denying his personal knowledge of Moteeloll, may have, and probably has, perjured himself, but that is not the perjury he is charged with, which is, having given contradictory statements on oath, and this is not the case

We acquit the prisoner and direct his discharge.

PRESENT.

J. H. PATTON, Esq. *Judge*

GOVERNMENT AND LEEL CHUNG

versus

DENGOO CHUNG

Sylhet.

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Case of DENGOO CHUNG.

CRIME CHARGED. Culpable homicide of Mussamut Chumpah widow, the sister of the prosecutor, by administering drugs to procure abortion.

CRIME ESTABLISHED.—Culpable homicide

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr F. Skipwith, sessions judge of Sylhet, on the 6th June, 1855.

The prisoner was convicted of the culpable homicide of a woman to whom he confessed that he had given drugs to procure abortion.

Appeal rejected.

Remarks by the sessions judge —The prisoner confessed, both before the darogah and the magistrate, to having given the deceased drugs to procure abortion, and to her having died in consequence, and his confessions are proved to have been voluntarily made. He also confessed before the neighbours, who came together on hearing the circumstance, and admitted that the deceased, who was his widowed sister-in-law, was with child by him. Before this court also he admits to having given the woman the medicine, but says he did so at her own request and that he forbad her to eat it.

The assessors convict the prisoner, and in this verdict I concur.

Sentence passed by the lower court —Imprisonment without irons for four years, and to pay a fine of 25 rupees, on or before the 15th June, 1855, or in default of payment to labor until the fine be paid or the term of the sentence expire.

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Case of DENGOO CHUNG.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The prisoner's plea in appeal that the witness, Jura Chung, gave some medicine to the deceased, which threw her into convulsions, and that he (prisoner) subsequently administered remedies for her relief, which proved unavailing is now advanced for the first time and perfectly unsupported. It is utterly unworthy of credit, and cannot be considered. There is no doubt of the prisoner's guilt. He admitted having procured drugs to procure abortion in the deceased, who was with child by him, before the neighbours who came together when the occurrence took place, and repeated the admission before the police, the magistrate and the sessions court. I see no reason to interfere with the conviction and sentence, which are hereby affirmed.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND WUZEER SHEIKH

versus

GOPAUL BABOO.

Beerbhoom.

1855.

August 31.

Case of GOPAUL BABOO.

Appeal rejected.

CRIME CHARGED.—1st count, theft of a sword, the handle and the end of the scabbard of which are of agate, and set with gold and rubies, together with a tassel of pearls, valued at Rs. 500; 2nd count knowingly receiving and having in his possession stolen property acquired by the above theft.

CRIME ESTABLISHED.—Theft of a sword, valued at Rs. 500.

Committing Officer.—Mr. G. Hewitt, deputy magistrate of Cutwa, Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 25th April, 1855.

Remarks by the sessions judge.—The prisoner was a servant of Maharajah Jugutunda Bunwareelall Bahadoor, the prosecutor's master, and had been employed with others as a guard over the *Toshukhana* in which a sword, the handle and end of the scabbard of which were set with jewels and pearls and valued at Rs. 500, was deposited with other property, the key of the room being also kept by the guard. On the 14th Magh, 1261, B. S. or 26th January last, the sword was missing and the prisoner having *absconded* from the Rajbaree early that morning, suspicion of the theft naturally fell on him. A few days afterwards he was met on the road near Burdwan by witness No. 1, Doorga Singh, a burkundaz attached to the jail at that station, and in consequence of his offering the sword, which he declared to be his father's, for sale at 50 rupees, and

1855. August 31. Case of GOPAUL BABOO.

the appearance of the sword having excited his suspicion that it was stolen property, he arrested the prisoner and took him to the police office. On the road to the thannah, the prisoner begged hard to be released and to be allowed to make over the sword which was concealed under his clothes.

It is clearly established, by the evidence for the prosecution, that the prisoner was on guard on the 13th Magh the night of the theft, that he decamped early the next morning on the plea of visiting a relation and was arrested with the sword in his possession; the sword is also proved to be the identical one that had been deposited in the *Toshakhana* and to belong to the prosecutor's master.

Before this court the prisoner pleaded *not guilty* and declared the sword had been entrusted to him by the Maharajah to sell at Burdwan, and cited four witnesses to prove his innocence.

This trial was taken up by the late officiating judge on the 2nd April, but in consequence of the absence of the witnesses for the defence, was postponed and a proceeding held requiring the committing officer, the deputy magistrate of Cutwa, to forward the witnesses without delay. A reply to the effect, that the parties had been required to attend the court was received, but in consequence of their not having arrived on the 16th, I again called upon the above officer to produce them. On the 24th an answer was received to the effect, that every means had been adopted to cause their attendance but in vain, and that the prisoner had cited these witnesses only out of revenge and to cause the Maharajah, whose servants they were, annoyance. As there appeared no chance of obtaining the attendance of the witnesses, and other papers in the record shewing these very parties to be engaged on business in various distant parts of the country, I considered it useless to postpone the trial any longer.

The jury returned a verdict of guilty, in which I fully concurred, and as the prisoner at the time of the theft was in the service of the prosecutor's master, and engaged to guard the *Toshakhana* and his master's property, I considered him deserving of enhanced punishment, and therefore sentenced him to five years' imprisonment with labor and irons and two years more in lieu of corporal punishment, making altogether seven years.

I also considered Doorga Singh Burkundaz deserving of a reward of 25 rupees.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The charge is satisfactorily established. The defence, set up in the foujdary, was evidently an afterthought, as when apprehended at Burdwan the prisoner told the police that the sword was his own property.

We see no reason to interfere.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

DHURNEO SHAHA PROSECUTOR, AND GOVERNMENT CO-PROSECUTOR,

versus

SOOFUL SHEIKH (No. 1,) AND MUHBOOL SHEIKH (No. 3, APPELLANT.)

Moorsheda-bad.

1855.

August 31.

Case of SOOFUL SHEIKH and another.

The prisoner's appeal was rejected.

CRIME CHARGED.—1st count, dacoity in the house of Dhurneo Shaha, from which property to the value of Rs. 238-7, was plundered; 2nd count, receiving and possessing the plundered property or a portion of it knowing it to have been acquired by the said dacoity.

CRIME ESTABLISHED.—1st count, No. 1, dacoity; 2nd count, No. 3, receiving and possessing plundered property, knowing the same to have been acquired by dacoity.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr D J Money, sessions judge of Moorshedabad, on the 30th May, 1855

Remarks by the sessions judge.—The prisoners, Nos. 1 and 3, confessed before the assistant magistrate as well as before the police. The confessions are proved to have been voluntary. No undue influence was exercised in taking them.

The confessions of the prisoner No. 1, and the property Nos. 2, 3 and 4, found in his house, as well as the property No. 1 which he gave to prisoner No. 2, his mother-in-law, convict him on the 1st count of having committed the dacoity in the prosecutor's house; I therefore sentence him to imprisonment with hard labor in irons for the period of seven years in banishment.

The evidence against the prisoner No. 3, consisting of his confessions, which were voluntary, and the finding of the property No. 7 in his house, convict him on the 2nd count, of receiving and possessing plundered property, knowing it to have been acquired by dacoity. I therefore sentence him to four years' imprisonment with hard labor in irons.

Act XVI. of 1850, to be enforced against the prisoners, Nos 1 and 3, for compensation to the prosecutor. The property Nos. 1 to 7 to be given to him.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The record proves the circumstances detailed by the sessions judge and fully establishes the prisoner's guilt. We therefore see no reason for interference and reject the appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND SUDDESSUR SEIN

versus

SEETARAM MANGEE (No. 1,) CHINTAMONEE MANGEE (No. 2,) NOBIN CHUNDAL (No 3,) SURROOP MANGEE (No. 4.)

Hooghly.

1855.

August 31.

Case of SEETARAM MANGEE and others.

The proof of the prisoners' guilt being ample, their appeal was rejected.

CRIME CHARGED.—Dacoity in the house of the prosecutor who was wounded, and plundering property to the value of rupees 254-7, on the 16th February, 1855.

CRIME ESTABLISHED. -Prisoner No 1, knowingly having possession of property obtained by dacoity. Prisoners Nos. 2, 3 and 4, dacoity with wounding and knowingly having possession of property obtained by dacoity.

Committing Officer.—Moulvee Abdool Luteef, deputy magistrate of Jehanabad, Hooghly.

Tried before Mr. G G Mackintosh, sessions judge of Hooghly on the 7th May, 1855.

Remarks by the sessions judge -The trial was conducted under the provisions of Act XXIV. of 1843.

The prisoners pleaded *not guilty*

The prosecutor is gomastah of a small village named Amar, in thannah Chunderkonah, his house was attacked by a band of about thirty dacoits at about midnight of the 16th February, 1855. They called to him to open the door, otherwise they should force it, and upon his doing so, they beat him with *lattees*, and breaking open his chests, &c., succeeded in obtaining a booty in ornaments, domestic utensils, clothes, &c, valued at Rs. 254-7. None of the dacoits were recognised, and there being no chowkeedar in the village, and prosecutor being much bruised, no intimation reached the police for two days after the dacoity.

The first clue to the prisoners was given by one jemadar Matteeah, who has most unaccountably not been made a witness, he informed the darogah that he had observed the prisoner No. 1, Seetaram Mangee, carry some property to the house of the witness No. 37; Seetaram was consequently apprehended, when he confessed, that upon hearing the noise of the dacoity he went out and saw the dacoits departing and recognised No. 2; that he then found the articles No. 112, which he took home, but upon hearing that the darogah had come, he concealed them in Harroo's cow-house. The prisoner No. 2,* Chinta-

Witnesses.
* No. 11, Bolaee Paul.
,, 12, Luckhee Narain Pundit.
,, 13, Cheedam Coloo.

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MANGEE and
others.

,, 15, Lall Mohun Ghose
,, 16, Rughoonath Mullic
,, 17, Bucharam Biswas.
,, 18, Nobin Roy.
,, 19. Nobin Pattun.

monee was next apprehended, h made a full confession, implicat ing the other prisoners Nos. and 4, who confessed* voluntarily and produced part of the stole property.

The prisoners Nos. 1, 3 and 4, repeated their confession before the deputy magistrate, bu No. 2, retracted all he had previ ously stated to the police; he how ever at the trial admitted havin had in his possession the ornaments alluded to in his confessio and to having pledged them for 2 rupees, as stated by the wit nesses,† but he averred that he had found them.

Witnesses.
† No. 23, Hurropersad Ghose.
,, 24, Ramculpo Dutt.

All the property, capable of identification, was proved t belong to the prosecutor, and th fact of the dacoity having occurre was establish[illegible] the sooruthal.‡

Witnesses.
‡ No. 33, Pookoodass H[illegible]
,, 24, Sreenath Dass.
,, 3[illegible] Coyl[illegible]n Ghose.
,, 36. Gooroopersad Ghose

The prisoners all denied thei previous confessions at the trial, and made defences, which were not verified by the witnesses§ whom they called

§ No. 4 Brindabun Aheer
,, 5, Toolseeram Cons
,, 7, Ram Colia.

The charge being fully established against all the prisoners by their confessions, which are proved to have been given voluntarily and without restraint, by the discovery of the property and by evidence, I convict the prisoners Nos. 2, 3 and 4, on both counts of the charge, and No. 1, on the 2nd count only, and I sentence them all to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin) The property found in the possession of the prisoners, and the confessions made by them relative thereto, supply sufficient proof of their guilt. We therefore see no reason to interfere with the sentences passed upon them.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND RAMSUNKER DOOBEY

versus

BHOLANATH BAGDY (No. 9, APPELLANT,) JEEBUN BAGDY (No. 10, APPELLANT) MOHUN MUNDUL (No. 11,) SHAM DOME (No. 12,) HANKA DEENOO GOPE (No. 13,) AND KRISTLALL MUNDUL (No. 14, APPELLANT,)

Moorshedabad.

1855.

August 31.

Case of BHOLANATH BAGDY and others.

The prisoners' appeal was rejected.

CRIME CHARGED.—Nos. 9 to 13, 1st count, dacoity in the prosecutor's (Ramsunker Doobey's) house, from which property to the value of Rs. 552-5-3, was plundered; 2nd count, Nos. 10 to 12, knowingly receiving and possessing a portion of the plundered property acquired by the said dacoity, No. 9, privity to the said crime before and after the fact, No. 14, privity to the said crime after the fact, Nos. 10 to 12, 3rd count, privity to the said crime before and after the fact.

CRIME ESTABLISHED.—Nos. 9 to 13, dacoity, No. 14, knowingly receiving and possessing property acquired by dacoity.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 11th June, 1855.

Remarks by the sessions judge.—The only one of the prisoners recognized during the dacoity was prisoner No. 9, but his recognition by the prosecutor led to the apprehension of the other dacoits.

From the confessions of the prisoners, Nos. 9, 10, 11, 12 and 13,* before the police and the lower courts, which confessions have been duly attested, and appear to have been voluntary, and from the finding of the property Nos. 1, 2, 3, 4, 5, 6, 7 and 8, in or near the houses of prisoners, Nos. 10, 11, 12, which have been identified as belonging to the prosecutor, the charge of dacoity is proved against the prisoners Nos. 9, 10, 11, 12 and 13.

* Witnesses Nos. 11, 12, 13, 14, 15, 16, 18, 19, 20, 22 and 23.

Witnesses Nos. 14, 15, 16, 24, 25, 26 and 28.

Witnesses Nos. 5, 6, and 32.

The prisoner, No. 14, by his confessions before the police and the lower court, which are duly attested, and appear to have been voluntary and from the discovery of property, Nos. 11, 12 13, 14 and 15, in his possession, which property has been identified as belonging to the prosecutor is convicted of knowingly receiving and possessing property acquired by dacoity.

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Although there are no marks upon the person of the prosecutor, he appears to have suffered considerably from alarm as well as maltreatment by the dacoits, and the women of his family also, from whose persons silver ornaments, as is usual in almost every case of dacoity, were forced with violence.

The prosecutor is a respectable man and has lost much property. This heinous crime does not appear to be on the decrease, and until it is put down by the strong arm of the law, property and life are not safe in any part of the district. With reference to these remarks, I sentence prisoners Nos. 9, 10, 11, 12 and 13, to twelve years' imprisonment with hard labor in irons in banishment, and prisoner No. 14, to eight years' imprisonment with hard labor in irons. Act XVI. of 1850 will be inforced for the benefit and compensation of the prosecutor. Property Nos. 1 to 8 and 11 to 15, will be delivered to the prosecutor, having been proved to belong to him. Nos. 9 and 10, will be confiscated.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to interfere with this conviction, which is founded upon the prisoners' confessions as also upon the general evidence against them.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

JUGONATH DEY PROSECUTOR, AND GOVERNMENT CO-PROSECUTOR

versus

HURRY GHOSE (No. 7,) AND RAMJEEBAN GHOSE (No. 8.)

Moorshedabad.

1855. August 31. Case of HURRY GHOSE and another.

Appeal rejected.

CRIME CHARGED.—Wilful murder of Ramissur Dey, nephew of the prosecutor, Jugonath Dey.

CRIME ESTABLISHED.—Culpable homicide of Ramissur Dey.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 15th June, 1855.

Remarks by the sessions judge.—The *futwa* of the law officer convicts the prisoners of culpable homicide.

They were guilty of a very severe joint assault upon the deceased, whom they found at night in the house of their sister-in-law, a widow, with whom, for some time, he had criminal connection.

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The woman witnessed the assault, and from her evidence, which there are no grounds for discrediting, it appears that they beat him with their fists and kicked him, and also beat him with rulers.

Witnesses Nos. 1, 12, 13 *and* 15.—He was seen after the beating senseless.

Witnesses Nos. 3, 4, 5, 6 *and* 7.—The day after he could not speak and appeared insensible.

He mentioned the names of the prisoners as having beaten him. Their names were mentioned by him when his deposition was taken by the thannah jemadar, three days after the beating in the presence of witnesses, who, with the jemadar, have attested and proved it.

I agree with the *futwa* in considering the crime to have been homicide and not murder.

The deceased lingered eighteen days and then died. His death was the result of the injuries he received.

The prisoners are sentenced each to seven years' imprisonment with hard labor in irons.

The magistrate's attention has been called to directions conveyed by this court, regarding the examination of dead bodies by the civil surgeon.

The police have evinced great neglect in the case, and their conduct will be brought separately to the notice of the magistrate. The darogah and jemadar are quite unfit for their appointments.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The evidence for the prosecution, in this case, is ample to prove the charge against the prisoners, in whose defence nothing has been substantiated. We reject their appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND LUKHUN SAMUNT

versus

AWUL SHEIKH.

Nuddea.

1855.

August 31.

Case of AWUL SHEIKH.

The case being satisfactorily proved against the prisoner, his appeal was rejected.

CRIME CHARGED.—Theft of plantains, valued at 8 annas, attended with the wounding of Lukhun prosecutor.

CRIME ESTABLISHED.—Theft with wounding.

Committing Officer.—Mr. A. J. Elliot, magistrate of Nuddea.

Tried before Mr. R. M. Skinner, sessions judge of Nuddea, on the 9th July, 1855.

Remarks by the sessions judge.—The prisoner was seen stealing plaintiff's plantains by plaintiff; when the owner tried to seize the defendant, the latter struck at his head with a sickle. Plaintiff put up his hand to ward off the blow, and received a severe cut on the wrist. Witness No. 1,* came up and saw a bag of plantains lying in plaintiff's garden and defendant quarrelling with plaintiff. Defendant ran off and plaintiff's wrist was bleeding. Witnesses, Nos. 2 and 3,† came and helped the plaintiff and witness No. 1, to secure the thief, who held the blood-stained sickle, which is now in court. These witnesses also testify to seeing plaintiff's wrist bleeding. The wound was‡ also fresh when *sooruthal* was made. The prisoner confessed at the thannah, and witnesses§ declare the confession was voluntary. The confession shews that prisoner stole the plantains and struck plaintiff and was seized immediately afterwards, but the prisoner alleges that plaintiff cut his own right wrist, holding the weapon with his left hand. Prisoner also admits that he was in jail seven years for a dacoity. His witnesses say nothing in his defence.

* Darick.

† No. 2, Petumber.
,, 3, Pollar Seikh.

‡ No. 3, Pollar Sheikh.
,, 4, Denonauth Sircar.
,, 5, Kistochunder Bhomck

§ ,, 6, Joygopaul Bhuttachargee.
,, 7, Kistochunder Singh.

The jury deem him guilty, I concur and sentence him to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoner has made no defence in his appeal to this Court; and the evidence of the witnesses for the prosecution fully establishes the truth of the prosecutor's statement, namely, that he detected the prisoner in the act of stealing his plantains and was wounded by the prisoner in the wrists in attempting to seize him. We see no reason to interfere.

SUMMARY CASES.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MADHOO DASS.

Midnapore.

1855.

August 7.

Case of MADHOO DASS.

The prisoner charged with being by profession a dacoit and having belonged to a gang of dacoits, was acquitted.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Lieutenant C. H. Keighly, assistant general superintendent and assistant to the dacoity commissioner, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 23rd June, 1855.

Remarks by the sessions judge.—The prisoner confesses to having been concerned in thirteen separate dacoities and that he is a dacoit by profession.

His confession is corroborated by the records of the trials, noted in the margin,* and by other trials held in the court, the vernacular papers connected with which are not forthcoming in the foujdary court. The prisoner, when he tendered his services as an approver and received a conditional pardon from Government, was undergoing a sentence for dacoity, passed on him by this court, in the month of August, 1854. I see no reason to doubt the prisoner's confessions or that he is what he represents himself to be. I accordingly convict him of the charge on which he is arraigned and recommend that he be sentenced to imprisonment for life in transportation beyond sea.

* Case No. 362, dacoity in the house of Kamdeb, Bakoorah.
Case No. 423, dacoity in the house of Ukhoyram Sahoo.

Resolution by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) No. 631, dated the 25th July, 1855.

The Court, having perused the papers connected with the case of Madhoo Dass, find an extract from a letter, dated 28th May, 1855, from the assistant general superintendant and assistant to the dacoity commissioner, to the Secretary to the Government of Bengal, requesting the sanction of Government for a conditional pardon to be granted to the prisoner, and also an extract from a letter No. 1186, of date 31st May, 1855, from the Under-Secretary to the Government of Bengal, in reply, intimating that the Lieutenant-Governor had been pleased to sanction the grant of a conditional pardon to the prisoner, with the view to his being employed as an approver. Under Section 6, Regulation XIV. 1810, "the chief executive authority is empowered in all cases, when it may appear proper, to pardon any person, charged with, or convicted of, a criminal offence."

1855. August 7. Case of MADHOO DASS.

The prisoner, therefore, had been pardoned, and could not consequently be tried on the same charge and convicted of the same offence. Under these circumstances, the whole of the proceedings on the trial are quashed, and the prisoner will be returned to the committing officer to be dealt with as directed by Government.

From the sessions judge of Midnapore, to the register of the Nizamut Adawlut, No 113, dated the 30th July, 1855.

In reference to the resolution of the Sudder Court of Nizamut Adawlut No. 631, dated the 25th instant, on the trial noted in the margin,* I beg to state that I forwarded a copy of the former to the assistant general superintendant for such explanation as he might wish to offer; a copy of his reply is herewith annexed †

* Government *versus* Madhoo Dass Charge. Being by profession a dacoit and with belonging to a gang of dacoits.

† From the Assistant General Superintendent of Thuggee at Midnapore to the sessions judge of that district, No 86, dated the 28th July, 1855.

With reference to your letter No. 140, of the 27th instant, and the Resolution of the Nizamut Adawlut, which accompanied it, I beg to make the following remarks, and I shall be greatly obliged if you will forward them to the Sudder Court.

In obtaining a conditional pardon for Madhoo Dass (committed on the charge of being a professional dacoit) previous to his conviction, I beg to state that I only acted agreeably to the orders, which have existed in the thuggee department since its first establishment.

The conditional pardon only exempts the prisoner from the punishment of "*death and transportation beyond seas*" (and that only on certain conditions) not from imprisonment for life, Vide Circular Orders, Nos. 246, 247, September 22nd, 1837.

If the Sudder will be good enough to refer to the small *misl*, which accompanied the larger one in the case, they will find the conditional pardon (in which the terms are fully laid down) attached, and with it a short confession taken after the pardon had been fully explained to, and understood by the prisoner The last sentence of my attestation to his confession is, "With the exception of the exemption from the punishment of death and transportation contained in the annexed conditional pardon."

These orders have always been carried out with regard to the Budhuks and Keechuks as well as Thugs, and since I commenced my operations against the Bengali dacoits of these districts with regard to the Bengalis likewise

The object in giving the conditional pardon before commitment is (I think) clear, a prisoner being much more unlikely to conceal a crime or accomplice, after he has had the terms of his conditional pardon thoroughly explained to him, than if he is committed without knowing what is to become of him, and after conviction any additional confession a prisoner may make is next to useless.

I trust that the explanation will be deemed satisfactory, for if the proceedings in this case are declared illegal, every Thug, Keechuk and Budhuk approver, besides the five Bengali dacoit approvers (whose cases have been before the Sudder in the last month) must be illegally detained in this office.

1855. August 7. Case of MADHOO DASS.

I would beg leave to point out to the Court, that Madhoo Dass has never been tried *before* on the charge on which he is now arraigned, and consequently could not have been tried and sentenced twice for the same offence.

The pardon to which the Court allude, bearing date 31st May, 1855, No. 1186, was obtained *before* the prisoner was committed and tried by me, and the reason why that course was pursued, the assistant general superintendent has explained.

It may be a question for consideration whether the mode of procedure hitherto pursued by the assistant superintendent is legal or not; with reference to the Circular Orders No. 247, dated 22nd September,* 1837, and No. 30, dated 27th September, 1839, that is whether the pardon should be obtained *before* or *after* conviction, but I agree with him in thinking that the pardon granted to a confessing dacoit, exempts him only from the punishment of death and transportation beyond seas. Not from imprisonment for life, which sentence I recommended should be passed on the prisoner Madhoo Dass.

* Act XXIV. of 1843, extends the provisions of these rules to the crime of dacoity.

The Court will not fail to observe that the Government, in their letter of the 31st May, 1855, did not grant an absolute pardon to the prisoner for the crime with which he was charged, but a conditional one, which *merely exempted* him from the punishment of *death* and *transportation*, *not* from punishment for life.

I request the further instructions of the Court on these points, as the procedure in the case of Madhoo Dass is, as far as I can learn, exactly the same as that pursued in regard to all dacoits, who have *already* been committed, convicted and sentenced under similar circumstances.

If the procedure be informal, it should at once be corrected.

A copy of the pardon granted in the Government letter No. 1186, dated 31st May, 1855, is submitted for reference.

Final resolution of the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) No. 681, dated the 7th August, 1855.

The Court observe firstly, that the sessions judge, in his letter of the 30th ultimo, states he recommended a sentence of perpetual imprisonment only to be passed on the prisoner Madhoo Dass, in his previous communication, of the 23rd June, whereas, it appears, on reference to that communication that he proposed a sentence of imprisonment for life *in transportation*.

They remark secondly, that the conditional pardon, on account of which the prisoner made his confession, exempted him from the punishment the sessions judge recommended.

They notice thirdly, that the rules relating to proposed thug approvers are not, in their opinion, applicable to proposed dacoit

1855. August 7. Case of MADHOO DASS.

approvers. The Government have determined that the former class of offenders are irreclaimable, and have resolved that none convicted, shall ever again be set at liberty, or let loose on society. With this view, they have enjoined certain proceedings, having for their object the legal detention of the prisoner in jail for the period of his natural life. These proceedings are laid down in Circular Order No. 247, of 22nd September, 1837, and consist principally of a conditional pardon, ratified by the Government, and a formal trial and sentence of the prisoner to imprisonment for life; thus securing his condemnation before admitting him as an approver.

The case is widely different with the proposed dacoit-approver. There is no necessity for the demand of a conditional pardon for him. His future intercourse with his fellow-men, is not interdicted on the ground of irreclaimableness: he need not be perpetually condemned. He is committed, tried, and sentenced in the usual mode, and subsequently pardoned under the provisions of Regulation XIV. of 1810, with the avowed object of being made an approver. He then becomes, as far as personal restraint is concerned, a free agent, and is virtually let loose again on society.

The Court remark, that the pardon of the prisoner, Madhoo Dass, pronounced as it has been by the chief executive authority, for the express purpose of being made an approver, cannot be regarded in any light other than exempting him from trial on any charge or charges of what nature soever pending against him. The words of the certificate clearly support the above view, as they declare pardon to the offence *aparadh*, which rendered the prisoner liable to death and transportation.

The Court observe fourthly, that a confession made by a criminal under the promise of pardon, is manifestly a confession obtained under the exercise of an improper influence. It is not free and voluntary, the only confession the law can receive, and cannot legally operate against the party making it. In the instance of the prisoner Madhoo Dass, his confession is clearly of this character. It is, moreover, the only evidence of his guilt, and there is nothing to shew that he was duly warned and made aware, that a trial and the actual endurance of a sentence of imprisonment for life would be, and that perfect immunity from further punishment and the enjoyment of the privileges accorded to the approvers on the establishment of the commissioner for the suppression of dacoity (a contingency quite within the range of his expectations) would not be, the consequence of that confession.

Under the circumstances and remarks above reverted to, and recorded, the Court see no reason to make any alteration in the order passed by them in this case on the 25th ultimo.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

MR. J. LYNCH

versus

RAMZAN AND OTHERS.

Behar.

1855.

August 30.

Case of RAMZAN and others.

Illegal order of a deputy magistrate, imposing a fine of fifty rupees without taking the prisoner's defence, reversed by the Court.

This case was referred to the Nizamut Adawlut, under Section 5, Act XXXI. of 1841, and Circular Order, dated 18th March, 1842, by Mr. T. Sandys, sessions judge of Behar, on the 8th August, 1855, with the following report.

I have the honor to submit, for the orders of the Court, copy of the magistrate's letter No. 369, dated the 8th instant, reporting an irregularity in the deputy magistrate of Sherghotty's proceedings in the case of Mr. J. Lynch *versus* Ramzan and others.

From the magistrate of Gya, to the sessions judge of Behar, No. 369, dated the 8th August, 1855.

Under Section 5, Act XXXI. of 1841, and Circular Order of the Nizamut Adawlut, dated 18th March, 1842, I have the honor herewith to transmit the record of the case, noted in the margin,* to be laid before the Nizamut Adawlut with the following report.

* Mr. J. Lynch *versus* Ramzan and others.

On the 22nd of June, a charge was preferred before Mr. deputy magistrate Davis by Mr. Lynch, employed on the works at Sherghotty, under Major Knyvett, executive officer of 2nd division of the grand trunk road, against certain parties employed on the said works as *hired* laborers. The charges were "assaulting him with stones and missiles so as to endanger his life." Mr. Davies applied to me as to how he should act in the matter. My advice to him will be seen in my reply, filed with the record of the case. Subsequently Mr. Davies applied to me as to how he was to realize the fine of fifty Rs. imposed on Mr. Lynch, as that person was in Calcutta, and the chief magistrate, in his letter No. 827, of the 17th of July, declared his inability to enforce the payment of the fine; I then sent for the record of the case and discovered that Mr. Davies had acted irregularly, in having fined Mr. Lynch fifty Rs. without having first summoned him to appear before him, or taken his defence, in any way. It is therefore necessary that Mr. Davies' order of the 12th of July, as regards Mr. Lynch should be reversed, in order that that officer may proceed in the usual way.

Resolution of the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 779, dated 30th August, 1855.

1855.

August 30.

Case of RAMZAN and others.

The Court having perused the papers above recorded, and adverting to the illegality of the proceedings of the deputy magistrate pointed out by the magistrate, reverse the order passed by the former officer on the 12th of July last, imposing a fine of fifty rupees on Mr. Lynch.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND DILLAN KOERI

versus

IMDAD ALEE KHAN.

Sarun.

1855

September 6.

Case of IMDAD ALEE KHAN.

The prisoner was convicted of culpable homicide and sentenced to four years' imprisonment by the sessions judge.

Appeal rejected.

CRIME CHARGED.—Murder of Boolakee Koeri.

CRIME ESTABLISHED.—Culpable homicide of Boolakee Koeri.

Committing Officer Mr. W. F. McDonell, officiating magistrate of Sarun.

Tried before Mr. H. Atherton, sessions judge of Sarun, on the 2nd July, 1855.

Remarks by the sessions judge.—This is a case of homicide arising from the illegal exercise of power by the defendant, an influential resident and late *malik* of Mouzah Khuska. It seems that about a year ago the wife of Choonee, witness No. 1. who belongs to the Patna district, came to live with the prosecutor, who had declined giving her up though told by the the Punch to do so. Failing to get her, Choonee wished to secure her ornaments, and coming, on the 29th April last, to look after them he found his wife in the prosecutor's field and beat her. Her cries brought the prosecutor, his brother and his father, the deceased Boolakee, to the spot, who severely beat Choonee as shewn by the marks left on his back. Choonee then went to the prisoner to complain of the treatment he had received, and was soon joined by the prosecutor and his father, who were tied up and then beaten by the prisoner as proved by the prosecutor and witnesses Nos 2, 3 and 4, a fine being imposed on the prosecutor; this occurred a little after 12 o'clock in the day, and the punishment being inflicted, the prosecutor and his father were allowed to leave the premises. The latter was, however, unable to reach his home, not far from the prisoner's, but fell down by a well on the side of the road and lay there till the evening when he expired. Information was at once conveyed to the darogah, who entered immediately on the enquiry, the result being that the prisoner has been committed for murder. The defence is that the deceased poisoned himself by taking opium, from vexation at the trouble caused by his son's improper conduct in refusing to give up the woman, and there are many witnesses produced to prove that medicine was given him to counteract the effects of the dose, but there is nothing at all to shew that he ever took opium or any thing else to injure him. Attempts were naturally made to restore him, but the evidence of the native doctor, witness No. 8, who examined the body, on the 1st May, reporting on the 3rd in

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Case of IMDAD ALEE KHAN.

the absence of the civil surgeon on leave, proves that there was no trace of poison or disease to be found, but that the spleen was ruptured and that there were marks of violence on the body, and there can, therefore, be no doubt that the deceased came to his death from the injuries sustained at the hands of the prisoner. The deceased appears to have been cuffed and beaten with a shoe, and there is no reason at all to suppose that the prisoner intended to do more than inflict the chastisement, he considered the deceased and his son deserved; but a blow on the side with a shoe when the deceased was struck is always dangerous as has been proved in this case. The prisoner allows that the parties appeared before him, but he says the darogah is his enemy, though this is by no means shewn by the investigation. He also in my court states that the native doctor told a neighbour of his, Ally Buksh, (not witness No. 26, in the calendar) that he required 1000 Rs. to furnish a *kyfeut* in the case, which would secure him from harm, but this statement is clearly false and has been made solely with the view of causing the native doctor to be distrusted, for it was never made to the magistrate, and Ally Buksh denies all knowledge of it. The Maulvee finds the prisoner guilty of culpable homicide, and, concurring in the *futwa*, I sentence him as noted below.

Sentence passed by the lower court.—To be imprisoned without irons for a period of four years, from 2nd June, 1855, and to pay a fine of Co.'s Rs. 250, on, or before, 2nd July 1855, or, in default of payment, to labor until the fine be paid or the term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) The prisoner took upon himself a responsibility, which was perfectly illegal. As an influential person in the village, he should have confined himself to hearing the complaint, and if the parties would not settle it, should have sent the delinquents in charge of the chowkeedar to the thannah. His proceeding to beat the accused was most unjustifiable, and he must stand the consequences of his offence. The evidence, which is most credible, is that on the parties appearing before him, he at once ordered the prosecutor and his father, the deceased, to be bound and himself began beating them. It is also apparent by the best testimony given, that of Jug Chowkeedar, that he struck the deceased with his fist on the side. This probably was the blow which caused the rupture of the spleen. The evidence of the native doctor in charge, twice given on oath, and both times subjected to close cross-examination, evinces that the deceased died from the rupture of the spleen, and that that organ was not diseased; that there were several bruises on the body, and no signs of poison in the stomach. The testimony of this man was *attempted in vain* to be proved malicious. Nothing however has been adduced to

render it in the least untrustworthy. There are, no doubt, discrepancies in the testimony of several of the other witnesses for the prosecution; but they cannot effect that which is above alluded to.

We see no sufficient reason for the interference.

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Case of IMDAD ALEE KHAN.

PRESENT:

J. H. PATTON, Esq., *Judge*.

GOVERNMENT AND ROODROKANT ODHIKARY ALIAS OODYE THAKOOR

versus

KULUN NUSHO (No. 1,) NUZEEBOLLAH NUSHO (No. 2), MASEENAH NUSHO (No. 3, APPELLANT) AND KHUROO FUKEER (No. 4, APPELLANT.)

Rungpore.

1855.

September 7.

Case of MASEENAH NUSHO and another.

Conviction and sentence passed by the sessions judge in a case of highway robbery, upheld in appeal.

CRIME CHARGED.—1st count, highway robbery and plundering cash and property belonging to the prosecutor, valued at Rupees 168-4-3; 2nd count, having in their possession, property acquired by the said highway robbery, knowing it to have been so acquired.

CRIME ESTABLISHED.—Highway robbery.

Committing Officer.—Mr. H. Nelson, officiating joint-magistrate of Bograh.

Tried before Mr. G. U. Yule, sessions judge of Rungpore, on the 14th May, 1855.

Remarks by the sessions judge.—The prosecutor, a Brahmin with no relations, was in the notorious habit of carrying all his valuables on his person; prisoners, Nos 1 and 2, who were working in his house, one day asked him for a loan, which he refused and they left him, saying they would see about the *taccas* he had on him. The same afternoon, prosecutor went, as usual to Satrole *hat*, where he was entitled to some small perquisites, and on his return with Khapoosha, witness No. 6, about 8 or 9 P. M., he was attacked by four men, who seized and beat him and carried off the money and ornaments tied round his loins, amounting in all, to Rs. 168-4-3. Khapoo, a weak and purblind old man, who had been a little ahead of him, came back on hearing the noise and was knocked down and told to be off. He could not recognize the aggressors, and it is clear that prosecutor himself did not do so, though he now deposes he did, for he mentioned no recognition to witnesses Nos. 2, 3 and 4, who came up shortly after the occurrence and accompanied him home, and witness, No. 1, a talkative old woman, living in prosecutor's house, deposed to the magistrate that on his return,

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prosecutor told her he thought he recognized prisoners, Nos. 1 and 2, while here she deposes to his statement of positive recognition. Be that as it may, he complained next day at the thannah and accused Nos 1 and 2, who, on apprehension, immediately confessed, giving up their shares of the spoil and naming as their accomplices, prisoners Nos. 3 and 4, who also confessed and produced their own shares. Before the magistrate, Nos. 1, 2 and 3, also repeated their confessions.

The guilt of these three is clearly established by their mofussil and foujdary confessions, and by satisfactory proof of their voluntarily giving up about 70 Rs. in cash and 9 or ten silver and gold ornaments, which were proved to be the property of prosecutor.

Prisoner, No. 4, repudiates his mofussil confession and claims the 35 Rs and piece of silver bullion given up by him as his own. It appears from the evidence of witness No. 7, that either one or two days after the robbery, prisoner No. 4, brought him a silver *mohunmallah* and two silver *gatteas* and requested him to make a new ornament out of them, which he declined doing from want of leisure, and prisoner accordingly sitting down, melted them himself and left the *ingot*, weighing two and half *tollahs* with him, to be worked up when time permitted. In the list of stolen property, filed on the 11th April last, there appear a *mohunmallah*, weighing two *tollahs*, and six *gatteas* weighing ditto. The *mohunmallah* has not been recovered and only three of the other things, the weight of two of them and the *mallah* would be 2-10 ten, almost exactly what the witness, No. 7, said Prisoner attempts not to prove that these articles are his, and on the other hand, I see no reason whatever to discredit the evidence to his voluntarily giving up the cash and telling what he had done with the ornaments, and confessing that they were his share of the robbery in which he had taken an active part. His being named also, in all the confessions of the other prisoners, corroborates the truth of his confession. He pleads an *alibi*, but his two witnesses do not prove it. The other prisoners allege their confessions were extorted, &c., and the money and ornaments put by the police in the places they were found; they have no witnesses and their story is not very probable in itself.

The jury, Rughoonath Muzoomdar, Haradhun Chund and Rajnaram Roy, putting confidence in their confessions, and considering the manner in which the property was found with them, so soon after the occurrence, convicted all four prisoners on the first charge, and concurring with them I sentenced the prisoners as mentioned below.

Sentence passed by the lower court.—Each to be imprisoned with labor and irons for five years.

Remarks by the Nizamut Adawlut.—(Present: J. H. Patton.)

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Case of MASEENAH NUSHO and another.

The prisoners Nos. 3 and 4, have appealed, but advanced nothing in their petition beyond what they urged in defence while on their trial. The sessions judge's report discloses very clearly all the particulars of this robbery, and there is no reason to doubt the prisoners' complicity in the crime. The former prisoner confessed, both before the police and the magistrate, and produced cash and ornaments declaring them to be part of his share of the plunder. The latter prisoner also confessed in the mofussil and produced 35 Rupees in cash and an *ingot* of silver he had prepared by melting some ornaments, which he admitted having taken from the person of the prosecutor. The silversmith, in whose house the prisoner melted down the ornaments, deposes to the fact, and states that the prisoner wanted him to dissolve the metal a day or two after the robbery and that on his refusing, the prisoner did so himself. His repudiation of his mofussil confession before the magistrate, under such corroboration, cannot avail him. The full and free admissions of his associates in the crime, the prisoner No. 3, and two others convicted and sentenced, but who have not appealed, and the production by them of the stolen articles tend to confirm the presumption of the prisoners' guilt. I concur in the propriety of the conviction and sentence, and reject the appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

BOYDDONAUTH MUNDUL.

Moorshedabad.

1855.

September 7.

Case of BOYDDONATH MUNDUL.

The prisoner was acquitted of perjury, his evidence upon which the charge was based, having been informally recorded.

CRIME CHARGED.—Perjury, in having on the 4th January, 1855, intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before Moulovee Abdool Jubbar, law officer, exercising the full powers of a magistrate in this zillah, that he could not say exactly whether Sreenath chowkeedar and Hulodhur Biswas were present or not; and in having on the 19th June, 1855, again intentionally and deliberately deposed under a solemn declaration taken instead of an oath before David Inglis Money, Esquire, sessions judge of Moorshedabad, that Sreenath chowkedar and Hulodhur Biswas did come there and were present; such statements being contradictory of each other on a point material to the issue of the case; and afterwards in having, on the said 19th June, 1855, deposed (when asked by the said sessions judge) under a solemn declaration taken instead of an oath, before the said David

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Case of BOYDDONATH MUNDUL.

Inglis Money, sessions judge of the said district of Moorshedabad, that he did not make such statement as above detailed before the above-mentioned law officer, such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 2nd July, 1855.

Remarks by the sessions judge.—The prisoner pleaded *not guilty*.

The prisoner in this case was a witness for the defence of Mudden Mohun Sircar, who was convicted by this court of perjury on the 19th June, 1855, and sentenced to five years' imprisonment with labor in irons.

In that case it was the object of Muddun Mohun Sircar to try and prove that Hullodhur Biswas and Sreenath chowkeedar were present, when a certain deed, suspected of being a false and fabricated one, was executed, and that they attested the execution.

He therefore called the prisoner in his defence. The prisoner then stated on oath that, when his name was written on the deed and his mark attached to it, Hullodhur Biswas and Sreenath chowkeedar were present.

On referring to a deposition on oath, which he had given before the law officer, it appeared that he had stated, when questioned on this very point, that he could not exactly say whether they were present or not.

He was therefore committed by direction of this court on a charge of perjury.

The statement before the law officer was made on the 4th January, 1855.

The statement before this court on the 19th June, 1855.

The deed was executed on the 17th December, 1854.

Sufficient proof was adduced, in the case of Government *versus* Muddun Mohun Sircar, to satisfy the court that Hullodhur Biswas and Sreenath chowkedar were not present when the deed was executed, and did not witness the execution.

If on the 4th January, 1855, when questioned on the subject, the prisoner could not say whether Hullodhur Biswas and Sreenath chowkedar were present or not, a little more than a fortnight after the execution of the deed, it is most improbable that he should on the 19th June, 1855, six months after the execution distinctly remember, and therefore distinctly state that they were present.

It was material to the issue of the case, in which his evidence was required, that the subsequent statement should be made

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and there can be no doubt that it was made wilfully and deliberately under a knowledge that it was false.

The two statements therefore were contradictory to each other on a point material to the issue of the case.

It is proved, by the mohurrir in the law officer's court, that the oath was duly administered to the prisoner, and his deposition read over to him before he attested it with his mark in the presence of the law officer.

His denial therefore, before this court, of having made such a statement before the law officer is false.

The *futwa* acquits the prisoner on the ground of its not being proved that the prisoner's statement was heard and signed by the law officer on the 4th January, 1855, and that there is only one witness, the mohurrir, in the law officer's court.

The law officer attested the deposition, and as the oath was duly administered, and the deposition read over to the prisoner before he put his mark to it in the presence of the law officer, I cannot concur in the objection raised by the *futwa*. The case is submitted for the opinion of the Nizamut Adawlut, and should they agree with me in considering the evidence sufficient to convict the prisoner of perjury, I could recommend him to be sentenced to five years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We observe that this charge cannot be sustained, for the evidence recorded on the 4th January was not attested by the presiding officer on that date; this is apparent from the order at the foot of it, dated the 5th January, issued to the darogah to send in the witness, viz. the prisoner, to attest his evidence. The foundation of both parts of the charge being the evidence of the 4th January, which is thus shewn to have been informally recorded, no conviction of perjury can be based on it. We agree with the *futwa* of acquittal, and direct the release of the prisoner.

PRESENT:
J. H. PATTON, Esq., *Judge.*

GOVERNMENT
versus
SUDDUN BHOYEAH.

Backergunge.

1855.

September 7.

Case of SUDDEN BHOYEAH.

The prisoner was convicted of perjury as to his relationship to a person for whom he was called to give evidence.

Appeal rejected.

CRIME CHARGED.—Perjury, in having on the 17th May, 1855, deposed under a solemn declaration, taken instead of an oath, before the sessions judge of Backergunge that he did not marry the daughter of Omed Ally Chowdri; such deposition being false, and having been intentionally and deliberately made, on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Bakergunge.

Tried before Mr F. B Kemp, sessions judge of Backergunge, on the 21st May, 1855

Remarks by the sessions judge.—The prisoner admits that he gave a false statement on oath before this court.

In a case of murder, the prisoner was cited as a witness by one of the prisoners in that case, by name Omed Ally. The prisoner swore in this court that he was not the son-in-law of the prisoner Omed Ally.

It is proved by the evidence of the witnesses, Nos. 2 and 3, that the prisoner married the daughter of Omed Ally, he now admits the fact. The *futwa* convicts, and, as the perjury was wilful, I sentence the prisoner as stated below.

Sentence passed by the lower court.—To be imprisoned for three years, with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The prisoner has committed a deliberate perjury, with the intent of exculpating his father-in-law, charged with murder. He admits his crime before the sessions court and makes no attempt at defence beyond pleading youth, which cannot avail him, as his age, in the record of the trial, is put down as thirty years. I see no reason to interfere with the conviction and sentence.

PRESENT:

J. H. PATTON, Esq., *Judge.*

GOVERNMENT

versus

BECHOO.

Backergunge.

1855.

September 7.

Case of BECHOO.

Prisoner convicted of perjury in giving his evidence under a false name, sentenced to three years' imprisonment.

Appeal rejected.

CRIME CHARGED.—Perjury, in having on the 2nd of March, 1855, given his deposition (under a solemn declaration taken instead of an oath in a case before the deputy magistrate of Madareepore,) under a false name, his own name being Bechoo, and he having deposed under the name of his brother Chittoo, an important witness in the case, but who, on account of illness, was unable to appear and give evidence before the deputy magistrate, such deposition, under a false name, being a point material to the issue of the proceeding.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 21st May, 1855.

Remarks by the sessions judge.—In a theft case, in which the prisoner Jaffer was plaintiff, the brother of the prisoner Bechoo, Chittoo by name, was named as a witness. Chittoo was ill, Bechoo came in and personated Chittoo and gave evidence on oath before the deputy magistrate of Madareepoor asserting that he was Chittoo. A mohurrir of the deputy magistrate brought the fact to his notice, this mohurrir is since deceased. The case is fully proved against the prisoner, No. 4. He confessed before the deputy magistrate; this confession has been duly attested in this court, and that the oath was administered to the prisoner in the deputy magistrate's court has been proved. The *futwa* convicts. I have sentenced the prisoner as follows.

Sentence passed by the lower court.—To be imprisoned for three years with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) This is a perjury by false personation. The prisoner, whose name is Bechoo, deposed under a solemn declaration that his name was Chittoo and admitted before the deputy magistrate, when detected of the fraud, that he had done so with the view of personating his brother of that name who was unable to attend the court from illness. The proof against the prisoner is conclusive and the perjury is barefaced and wilful. I see no reason to interfere with the conviction.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT

versus

MUDUN MOHUN SIRCAR.

Moorshedabad.

1855.

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Case of MUDUN MOHUN SIRCAR.

The evidence for the prosecution was held not to prove perjury against the prisoner.

CRIME CHARGED. Perjury, in having on the 12th May, 1855, corresponding with 30th Bysack 1262, deposed under a solemn declaration taken instead of an oath before Mr. D. J. Money, civil judge of Moorshedabad, that Hullodhur Biswas and Shreenath Chowkedar were present when the deed of gift was executed by Droba Moyee Dossee to Munmohenee Debya and attested the execution; such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer. —Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J Money, sessions judge of Moorshedabad, on the 19th June, 1855.

Remarks by the sessions judge.—In a miscellaneous case tried by me in the civil court, and decided on the 14th May, 1855, Munmohenee Thakooranee claimed the property of Droba Moyee Dossee, deceased, on the ground of a registered *hibah* or deed of gift.

There was the strongest presumptive evidence that the deed was a forgery, and the parties implicated, together with the documents and proceedings in the case, were sent to the magistrate, who was directed to investigate the case, and ascertain if there were sufficient grounds for committing the parties on the charge of forgery to the sessions court.

During the trial of this case, in the civil court, the prisoner, now before me, made a false statement on oath to the effect that Hullodhur Biswas and Sreenath chowkedar were present, when the deed was executed and attested the execution.

This statement, on oath given by the prisoner in that case, in the first court. has been duly proved in the sessions court.

It remains to be determined whether the statement, so given by the prisoner on oath, was a false one, intentionally and deliberately given on a point material to the issue.

Hullodhur Biswas and Sreenath chowkedar have declared upon oath that they were not witnesses to the deed, and that it was not executed in their presence.

The prisoner in his defence was allowed to call witnesses and have the benefit of counsel.

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The first witness called by him is Boyddonath Mundul, a witness to the deed, whose presence was not procurable in the trial of the case in the civil court.

This witness states on oath that when his name was written on the deed and his mark attached to it, Hullodhur Biswas and Sreenath chowkedar were present.

On referring to a deposition on oath of this witness, taken before the late law officer before the case was brought before the civil court, I find that he there stated, when questioned, that he could not exactly say whether they were present. This is a contradiction on oath, and I have directed him to be committed by the magistrate for perjury.

Of the remaining witnesses, Kasheenath Sircar gomashta, Boyddonath Putwaree, Sreemunt Halsahana, Bulye Halsahana, and Bhagbut Doss state that Hullodhur and Sreenath were present, but they do not know who impressed the deed

Their statements are unworthy of credit for the following reasons

Ootchubanund Panreh, who is one of the parties implicated in the forgery and who has given his evidence in this court, wrote the deed at the dictation of the prisoner. He wrote himself the name of Hullodhur and affixed his mark, Hullodhur can write his own signature, and has subscribed his name to his deposition in this court.

Sreenath Halsahana and Bulye Halsahana declare that Sreedam Kurmokar, another witness to the deed, was present.

This witness, before the law officer, declared, on oath, that he knew nothing about any deed or writing

The facts of the case connected with the deed, which is suspected to be a fabricated one, raise a strong presumption against the statements of these witnesses, and tend to the conviction of the prisoner.

The stamp was bought on the 4th Poos 1261 B. S. or 8th December 1854, and the deed is dated the 3rd Poos or 17th December. Drabo Moyee Dossee died on the 5th Poos 1261 B. S. or 19th December 1854, and Ootchubanund Panreh in his deposition in the civil court has stated that she died several days after the deed had been registered. The deed was registered on the 21st December, 1854. The complicity between him and the prisoner in connection with the deed is clearly established. Upon all these grounds, I think the charge of perjury proved. The *futwa* convicts the prisoner of the charge, and with reference to the frequency of the crime, particularly in such cases, I sentence the prisoner to five years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present Messrs. H. T. Raikes and B. J. Colvin.) The perjury charged, consists in the prisoner having on oath stated that Hullodhur Biswas and

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September 7.

Case of MUDUN MOHUN SIRCAR.

Sreenath chowkedar were present at and attested the execution of a certain deed of gift, the two persons indicated deny having been present and having attested the deed. The sessions judge presumes their evidence as true and the prisoner's statement to be false, but this conflict of testimony is not sufficient proof of the prisoner's falsehood, unless evidence is forthcoming to establish the truth of the counter-statement, and though the circumstances, referred to by the sessions judge, may be received as throwing suspicion on the deed, they do not raise any presumption as to the truth of Hullodhur and Sreenath's assertions. We acquit the prisoner.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

NURAIN GEEREE.

Midnapore.

1855.

September 7.

Case of NARAIN GEEREE.

The prisoner was sentenced as a dacoit by profession.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Lieut. C. H. Keighly, assistant general superintendent and dacoity commissioner, exercising the powers of joint-magistrate, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 8th August, 1855.

Remarks by the sessions judge.—The prisoner is charged with being by profession a dacoit, and with having belonged to a gang of dacoits.

The prisoner, before the assistant superintendent, confessed to his being a Sirdar dacoit, and to his having committed with others, seventeen separate robberies. This confession he affirms in this court, and states that it is true and was voluntarily given. It is also corroborated by witnesses (approvers) Nos. 1, 4 and 5, who accompanied him on some of his expeditions recorded, and by the misls of the two trials noted in the margin,* both which terminated in the conviction of the parties committed to the sessions.

* Case No. 151, dacoity in the house of Toolseeram Bhooya.

Case No. 481, dacoity in the house of Kalidas Nag.

The evidence is conclusive, in my opinion, that the prisoner is, as he represents himself to be, a dacoit Sirdar, and that he has for years belonged to a gang of dacoits, and I accordingly recommend that he be sentenced to imprisonment for life in transportation beyond seas.

1855. September 7. Case of NARAIN GEEREE.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) In concurrence with the sessions judge, we convict the prisoner, on the evidence above indicated, of the crime charged, and sentence him to imprisonment for life in transportation beyond sea.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KANTEERAM MUNDUL.

Midnapore. 1855. September 7. Case of KANTEERAM MUNDUL.

The prisoner was sentenced as a dacoit by profession.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Leiut. C. H. Keighly, assistant general superintendent and dacoity commissioner exercising the powers of joint-magistrate, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 1st of August, 1855.

Remarks by the sessions judge.—The prisoner is charged with being by profession a dacoit and with having belonged to a gang of dacoits.

The prisoner was denounced as a dacoit by profession by the approvers, witnesses No. 1, Madhub Dass, No. 2, Benoo Perdhaee, and No. 5, Jugoo Sahoo, on the 12th March and 3rd May, respectively.

On his arrest in the month of June, he made a voluntary confession before the assistant general superintendent of having been concerned in seventeen separate dacoities.

In this court, he affirms this confession and states that it was given voluntarily.

The confession is corroborated by the evidence of the witnesses Nos. 1, 2 and 5, and by the documentary evidence, noted in the margin,* and is further confirmed by the records of this court, from which it appears he was sentenced in 1840, to five years' imprisonment for a dacoity in the house of one Toolseeram Bhooyeah.

* Case No 345, connected with a dacoity in the house of Nitye Mullikap and case No. 291, connected with a dacoity in the house of Jugoo Poojaree.

The proof of the prisoner's guilt of the charge, on which he is arraigned, being clear and conclusive, I recommend that he be sentenced to imprisonment for life, with a view to his being

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September 7.

Case of KANTEERAM MUNDUL.

made an approver, a promise of pardon having been tendered to him by the assistant general superintendent.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We convict the prisoner Kanteeram Mundul of the charge brought against him, on his own confessions and on the evidence adduced against him, and sentence him to be imprisoned for life in transportation.

This sentence is passed without reference to the prisoner being hereafter made an approver; neither the sessions judge nor this Court can qualify their sentence on any such consideration.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

SUMBHOO DOSS.

Midnapore.

1855.

September 7.

Case of SUMBHOO DOSS.

The prisoner was sentenced as a dacoit by profession.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Leiut. C. H. Keighly, assistant general superintendent and assistant to the dacoity commissioner exercising powers of joint-magistrate, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 25th July, 1855.

Remarks by the sessions judge.—The prisoner confesses, before the assistant general superintendent, to his being a dacoit by profession and to his having been concerned in twenty separate robberies.

In this court he affirms these confessions and declares them to be true and voluntarily given.

They are also corroborated by the documentary evidence noted in the cases below.*

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* Case No. 440 and Case No.

Case No. 440.—It appears from the *nuthee* connected with the depositions given by Mooktaram Dugrah, manager of the widow of Bholanath Jonah, (deceased) that on the 30th September, 1851, corresponding with 16th Ausin, 1259, a burglary was committed in his mistress's house and the dacoits plundered cash and property as per list. Muddoo Neka and other prisoners were apprehended.

Case No.— It appears from the papers of investigation forwarded by the darogah of thannah Kaseegunge, that although Doorgapersaud Bhooyah (the plaintiff,) had denied in the mofussil and sudder, that the dacoity had occurred in his house, yet it is proved from the depositions of Puddo Ghose, Mookhya Soonder Myttee, (inhabitants of that village,) that a dacoity was

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September 7.

Case of SUMBHOO DOSS.

The prisoner is a very old offender. He states he underwent a sentence of nine years' imprisonment for gang-robbery about thirty-one years ago, but the records of the trial are not traceable either in this or the magistrate's court.

According to jail registers, to which reference has been made, the prisoner was sentenced to seven (7) years' imprisonment for burglary and was released on 11th March, 1825.

He appears to have been tried by the court of circuit, the records of which have not been sent to this office. The magistrate's records, of the period referred to, have been destroyed by white ants.

He is at present undergoing a sentence of fourteen years' imprisonment passed on him in August, 1854, which sentence has been affirmed by the superior Court.

I convict the prisoner of the charge on which he is arraigned and recommend that he be sentenced to imprisonment for life in transportation.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The confessions of the prisoner are on record, he also pleaded *guilty* before the sessions court.

We convict the prisoner of the crime charged, and sentence him to transportation for life beyond sea.

committed in the owner's house, last year in the month of Magh, and that they heard noise, that the Gyollees were in his house, that very night and took to flight, and that the former darogah came and investigated the matter.

Although Doorgapersaud denies the occurrence of the dacoity, yet, for the above reasons, I consider the case fully proved, and as the prisoner perpetrated dacoity himself, as a leader, and under the leader, Sreemunt Panyah, and others, he is committed on a charge of being a professional dacoit and having belonged to a gang of professional dacoits to take his trial before the sessions court this 19th day of July, 1855.

PRESENT:

A. DICK AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT, CHUNDOO CHUMAR AND HORIL

versus

BARHOO (No. 1,) AND RUMZOO (No. 2.)

Patna.

1855.

September 10.

Case of BARHOO. and another.

One prisoner convicted of aggravated culpable homicide, on strong circumstantial evidence, and sentenced to fourteen years imprisonment. Another acquitted, the evidence against him being deemed utterly unworthy of credit.

CRIME CHARGED.—Wilful murder of Muttur Chumar.

Committing Officer.—Mr W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna.

Remarks by the officiating sessions judge.—The deceased was the prisoner Rumzoo's ploughman, or at least deceased's father *was* Rumzoo's ploughman, and either the deceased or deceased's brother "Gaineea" worked at prisoner's plough for their father. Of the three persons charged with Muttur Chumar's murder, Rumzoo prisoner, is the prisoner Barhoo's uncle, and Unwur (not yet apprehended) is Rumzoo's son-in-law, and they all live together in Mowzah Russoolpoor.

On the afternoon of Tuesday, the 22nd May, the deceased was either drinking himself or sitting with some others drinking (the evidence is discrepant on this point) at Nundlall Pasee's grog-shop, when the prisoner, Barhoo, came to the place, called for deceased, and after rating him for his idleness and profligacy, told him to go to collect the straw* in the Khulian and stack it at his (Barhoo's) house. The deceased made excuses, saying a friend had come from a distance and he was treating him to something to drink, and in fact refused to go and work. On this, there were more hard words used by Barhoo, who eventually carried deceased off to his house, shut his door, bound the unfortunate man head and foot, and with the assistance of the prisoner, Rumzoo (who was the master of the house, and for whom Barhoo probably acted) tortured and beat him so unmercifully by tying him up, striking him with their fists, kicking him and jumping on his body, that he died within an hour or two.

* That is straw with the husk "bhoosi," not bran (bhoosee) as stated in magistrate's calander

The prosecutor, a Chumar, and the witnesses to the fact, all Chumars and Jolahas, residents of Russoolpore, are by no means consistent in the minor details of their story, and I am of opinion from the manner in which they have given their evidence, that they have been tutored by the police to say more than they saw; still the above facts have been clearly elicited from them, and the circumstantial evidence is in support of them.

No. 1, Gurboo,
,, 2, Soomera,
,, 3, Ukbur,
,, 4, Jhummun,

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September 10.

Case of BARHOO and another.

No. 5, Shobratee,
„ 6, Ukkul,
„ 7, Mutter.

One of these witnesses, Gurboo, certainly did not witness the ill-treatment, and I have committed him for perjury, the darogah having induced him to it to make the case "complete" in my opinion

"Soomera" did not allude to the torture of "*Gola-lathee*" (this consists of bringing the arms over the knees and tying them, and then thrusting a bamboo under the knees and above the arms) before the magistrate, and says before me "Gurboo" saw the beating with him, which "Gurboo" *now* denies. He also says he went to Rumzoo's house to see what was going on. But in my opinion he only witnessed the violent abduction of the deceased from the grog-shop. "Ukbur" No. 3, who is a Jolaha, says he heard the altercation at the grog-shop between the prisoner, Barhoo, and the deceased while passing by Nundlall Pasee's shop, to a place he was in the habit of easing himself at, and witnessed the ill-treatment at Rumzoo's house on his return, as he lives at Rumzoo's door but he says before me, what he never said before, that Unwar was present during the assault and that the prisoners jumped on and pressed down deceased's liver; and I am of opinion he saw only, like the rest, Barhoo, prisoner, carrying off deceased from Nundlall Pasee's, ill using and abusing him on the road, and pulling him inside Rumzoo's house at about 5 P. M. on the day in question, that he heard the beating from his house, or heard of it from some persons about the prisoner's house; and that he saw deceased dead on the road facing Rumzoo's house at about 8 P. M. the same night. "Jhummun Chumar No 1, is the prosecutor's nephew, was certainly with deceased in the grog-shop, when Barhoo came and carried him off, but did not, in my opinion, as he states see the deceased bound and beaten by the prisoners and Unwar in Rumzoo's house from Rumzoo's door, which he says was at first left open and afterwards closed Shobratee, No. 5, a Jolaha saw deceased brought to Rumzoo's house by Barhoo, but could not possibly have seen what occurred inside Rumzoo's house from his own house, where he was working, although it is *vis-a-vis* to Rumzoo's ("*amne-samne*.") He cannot say who besides saw what he says *he* saw; and he admits if others saw what occurred in Rumzoo's house, they must have done so by climbing up the walls of the enclosure, *as the door was closed.* Muttur Koonjera, No. 7, and Ukkul Jolaha, No 6, give the same evidence as Shobratee, No. 5, and my remarks equally apply to them.

If retribution for the murder of Chumars and such like depended on the consistent and concordant evidence to the fact of the witnesses of the same or of the like castes, after it has passed through the police darogah's hands, (who never will leave a case alone, but must always prepare it and patch it up,

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by teaching the witnesses to learn their evidence off by heart before hand, and to say more than they know,) every Chumar and Dosadh in the country could be beaten to death or murdered without any one receiving punishment; but I am of opinion that in this case there are three points which will bring the wrong doers to justice without fear of error and injustice, and they are these:

1*st*. The evidence of the witnesses to the fact as to the deceased having been carried off and abused, and *probably killed* by ill-treatment and violence, on the part of the prisoners, on the night in the question.

2*nd*. The material and convincing evidence of the witnesses to the *sooruthal*, and the circumstantial evidence of Nundlall Pasee; and

3*rd*. The improbability of the defence, and the palpably false evidence of the witnesses produced in support of it.

The corpse was immediately after death seen by the witnesses, Neeroo Panday, No. 10, and Ramsahai Singh, No. 11, who have sworn before me to their signatures at the inquest, and who further state from memory that they observed several distinct marks of violence and swollen places on the body. Dr. Dicken, the civil surgeon, says that although he examined the body when it had become considerably decomposed, he ascertained there had been such severe injuries inflicted on it before death, that he has little or no doubt death was the consequence of them. Nundlall Pasee, No. 13, swears positively and clearly to deceased having come to his shop on the day in question, having bought a pot of toddy, when the prisoner, Barhoo, came and abused deceased, and carried him off with him to his (i. e. Rumzoo's) house.

The prisoners affirm in their defence that Barhoo carried off the deceased from the grog-shop to work in their Khullian; that he *did* work there; and that *afterwards he died of cholera at their door.* The prisoner, Barhoo, says the prosecutor, Chundoo, and his sons owe him money, and have brought this false charge against him in return for being asked for the money; but there is no proof of this, and the prisoner, Rumzoo, says he does not know why this crime has been falsely imputed to him. They refuse to have five of their twelve witnesses examined (Nos. 1 to 5, inclusive) while the testimony of the rest is palpably false, as No. 6, Moulvee Eshan Alli, lives four *coss* off at Palee, and all the rest (but Warris Alli) at Muhmoodpore and Burreeawun villages, it is true close by, but for leaving which and all coming accidentally at the time of deceased's death at 8 P. M., to Russoolpore, no credible reason is assigned. The witness, Warris Alli, has resided in Russoolpore *two months only*. One of these witnesses too, Peer Alli, says deceased was

1855. September 1. Case of BARHOO and another

taken straight from the grog-shop to Rumzoo's house where he died shortly after.

The prisoners are evidently men of wealth and power; and if they were not village tyrants could easily have got some respectable men of their own village to speak in their behalf. They employed in the magistrate's court five mokhtears, here two with me, and have summoned before me twelve witnesses, five of whom they dare not examine, while the evidence of the remainder has been clearly suborned; and in concurrence with the law officer, I convict both prisoners equally of aggravated culpable homicide, and recommend that they be each imprisoned for fourteen years with labor and irons in banishment.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) There is positive evidence that the deceased was carried away forcibly by prisoner Barhoo, from the spirit-shop to his house, and that he was there found dead, lying outside the door. The testimony of the surgeon, who examined the body, indubitably shows that death was caused by severe violence. The inference therefore is conclusive that the deceased was maltreated by the prisoner, so as to have occasioned death. The depositions of the alleged eye-witnessss are so utterly discrepant and incredible that no reliance can be placed on them. We therefore convict the prisoner on violent presumption of being an accomplice in the culpable homicide charged, and sentence him, as recommended by the sessions judge, to fourteen years' imprisonment with labor in irons in banishment. Not satisfied with the evidence against the prisoner Ramzoo, who is not mentioned as having accompanied Barhoo, when he carried away the deceased from the grog-shop, and whose being at home from the time the deceased was brought to the house, until his corpse was found lying outside, is not stated by any witness, except by those whose evidence we have rejected, we acquit him and order his release.

PRESENT:

J. H. PATTON, ESQ., *Judge.*

Nuddea.

1855.

September 11.

Case of LALCHAND DHALEE.

Prisoner convicted of dacoity, sentenced to seven years' imprisonment by the sessions judge.

Appeal rejected.

GOVERNMENT AND SHIBOO KAMAR

versus

LALCHAND DHALEE.

CRIME CHARGED.—1st count, dacoity in the house of Shiboo Kurmokar, in which property to the value of Rs. 100-10-9 was plundered, and Peary Kurmokar, the witness in the case, was wounded; 2d count, having been apprehended in the above dacoity, escaping from custody before trial from the Hajut guard of Kalaroa.

CRIME ESTABLISHED.—Dacoity.

Committing Officer. - Mr. A. Elliot, magistrate of Nuddea.

Tried before Mr. C. Steer, additional sessions judge of Nuddea, on the 26th April, 1855.

Remarks by the additional sessions judge.– The prosecutor's house was attacked, on the night of the 27th September, 1854, by a gang of about twenty dacoits. The prisoner was recognised by the prosecutor and by some of his witnesses, Nos. 1, 2, 3, and 4, and on his apprehension, he made a full confession of his guilt and adhered to it before the deputy magistrate. If the evidence had consisted of nothing more than the recognition, I should have considered it doubtful, but as that evidence has been confirmed by the voluntary confession of the prisoner, all exception to it is removed.

The prisoner's defence at the sessions is, that being the chowkedar of an indigo-factory, he has frequently, in the discharge of his duty, incurred the ill-will of the villagers, and that Adar Biswas, witness No. 5 had an especial spite against him on that account, and has, in order to gratify it, got the witnesses in the case to accuse him. He pleads an *alibi* and denies that he ever made any confession. He names two witnesses to the latter point. One he repudiates as not the person named, the other deposes that the prisoner was engaged with him catching fish on the night of the dacoity. It was while so engaged, that the prisoner in his confession states that the gang of dacoits came up to him, and invited him to join them. If the prisoner agreed to do so, as he admits, there is every reason to suspect his confessions were not less complying. However that may be, the evidence to an *alibi* by whatever number of persons it may be sworn to, would not lead me to credit it, in the face of the refutatory evidence furnished by the prisoner himself in his confession. I do not therefore consider it necessary to put off the case for the purpose of having the absent witness

called, and as the guilt of the prisoner is fully established by the evidence of eye-witnesses and his own verified confessions, I sentence him to seven years' imprisonment with labor in irons.

1855.

September 11.

Case of LALCHAND DHALEE.

The prisoner admits that he escaped from the Hajut guard, but as I hold him convicted of a higher crime, I have taken no account of this count.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The prisoner was recognized during the dacoity and confessed before the police and the deputy magistrate. I see no reason to doubt the guilt of the prisoner and confirm the conviction and sentence.

PRESENT:

J. H. PATTON, ESQ., *Judge*

GOVERNMENT

versus

MOHUN KISHNO DEO

Tipperah.

1855.

September 11.

Case of MOHUN KISHNO DEO.

Prisoner convicted of perjury arising out of contradictory statements.

Appeal rejected.

CRIME CHARGED.—Perjury, in having on 7th October, 1851, intentionally and deliberately deposed, under a solemn affirmation, taken instead of an oath, before the officiating joint-magistrate of Noacolly, that after the commencement of a dispute concerning some seedling, "*dhan*" with Parbutty Churn, this defendant's father, Bindabun Deo, coming to the spot, fell weak from the effect of assault committed by Issanchunder and Moniram and others, and was carried to the side of a tank, where Chundchurn went there and kicked Bindabun on the right side, when he became senseless and speechless, from which circumstances he died in the same state at four *ghurrees* of the same night; and in having on the 20th February, 1855, again intentionally and deliberately deposed, before the sessions judge of Tipperah, that his father had died from the effects of a cough, and that no one had assaulted him, and that he had given a false deposition in the foujdary; such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Wilful perjury.

Committing Officer.—Mr. F. B. Simson, officiating joint-magistrate of Noacolly.

Tried before Mr. E, Radcliffe, officiating sessions judge of Tipperah, on the 2nd July, 1855.

Remarks by the officiating sessions judge.—This is a common case of perjury, the abstract charge of which sufficiently explains the nature of the offence. The prisoner was committed

1855.

September 11.

Case of MOHUN KISHNO DEO.

by my predecessor, on the 21st February last, to the joint-magistrate, in consequence of the perjury discovered by him during the trial of Chundichurn and others for the murder of Bindabun Deo.

The prisoner pleads guilty; witness No. 3, Goopee Chunder Sein Mohurri, wrote the deposition of the prisoner on the 7th, October, 1854 before the joint-magistrate, and witness No. 4, Noorbux Peadah, made him repeat the solemn affirmation, under Act V. of 1840, at the time of writing as well as attestation of the deposition by the presiding officer.

The evidence of the witnesses, Mahomed Diam, No. 1, and Tumeezoodden, No. 2, depose to the contradictory deposition of the prisoner, on the 20th February, before the sessions judge and also prove the prisoner's confession before the joint-magistrate.

The prisoner in this court, at first, denied giving false evidence, but afterwards admitted that he had made two statements that his father died quietly after a few days' illness from cold, that his deposition before the joint-magistrate was false, that he had been induced to make it through ill-treatment of the police, but declined calling any evidence in support of his assertion.

The perjury being clear and the prisoner in the murder case escaping the hands of justice through the prisoner's false testimony. Vide Mr. Metcalfe's remarks, Statement No. 8, on trial No. 5, for February last, I have sentenced the prisoner in concurrence with the law officer's *futwa*, to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) This is a clear case of perjury by giving contradictory statement under solemn affirmation, taken instead of an oath, and the prisoner pleaded guilty when put upon his trial. There is no cause for interference with the order made by the sessions judge.

PRESENT:
J. H. PATTON, Esq., *Judge*.

GOVERNMENT
versus
RAMRUTCHEEA ROY.

Shahabad.
1855.
September 11.

Case of RAMRUTCHEEA ROY.

Prisoner convicted as an accomplice in affray attended with culpable homicide and wounding, sentenced to six years' imprisonment.
Appeal rejected.

CRIME CHARGED.—Accomplice in an affray attended with wilful murder of Goman Roy, and wounding of Ramphul Roy, Jainath Roy and Honoman Roy on one side, and wounding Dumree Roy, Soumber Roy and Deendial Roy on the other side.

CRIME ESTABLISHED.—Accomplice in an affray attended with the culpable homicide of Goman Roy and wounding Ramphul Roy, Jainath Roy and Honoman Roy on one side, and wounding Dumree Roy and Deendial Roy on the other side.

Committing Officer.—Mr. H. Richardson, officiating magistrate of Shahabad.

Tried before Mr. W. Tayler, sessions judge of Shahabad, on the 24th March, 1855.

Remarks by the sessions judge.—The facts and incidents of this case were thus detailed in Statement No. 6, for September, 1854.

"This affray appears to have arisen from some dispute regarding the grazing of the belligerent's cattle; though not directly in evidence, it is shewn by the darogah's report that on the day previous there had been a dispute in which the first party (prisoners Nos. 1 to 3.) had received some wounds."

On the next day a more determined fight took place, when the deceased Goman Roy was killed, and others on both sides were wounded; the prisoners of the second party, from Nos. 11 to 15, appear to have been the aggressors and to have fought most recklessly.

Prisoner, No. 11, is proved to have struck the deceased with iron-bars, which, from the evidence of the assistant-surgeon, was the immediate cause of his death.

The prisoners all pleaded *not guilty*, but the presence and participation of the whole, is clearly established by the evidence of the eye-witnesses, who, though colouring their assertion to suit their respective parties, each establish the crime against the others.

The defence of prisoners, Nos. 11, 12 and 13, consists merely of the more favorable version of the affray, as detailed by the witnesses on their side.

Prisoners, Nos. 8, 9, 10--14, and 15, give evidence to an *alibi* which is not substantiated to the satisfaction of the court.

1855.

September 11.

Case of RAMRUTCHEEA ROY.

The presence and active participation of the prisoners, are clearly established by the evidence of the eye-witnesses as per margin.* His defence is an *alibi*, the evidence to which deserves no credit.

* Ujruwul Roy and Sewgolam Roy.

The *futwa* convicts and holds the prisoners liable to *seeasut*.

Sentence passed by the lower court.—To be imprisoned with labor and irons for six years.

Remarks by the Nizamut Adawlut.—(Present: **Mr. J. H. Patton.**) I concur with the sessions judge in thinking that the evidence, adduced on the trial, clearly establishes the presence and active participation of the prisoner in the crime charged, and confirm the conviction and sentence. This case arises out of one decided by this Court on the 26th January, 1855, in which sentences of various periods of imprisonment passed against the prisoner Ramtahal Roy and seven others were confirmed.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

BAIKUNT JUR BAGDEE (No. 6.)

Hooghly.

1855.

September 12.

Case of BYKUNT JUR BAGDEE.

Prisoner convicted of having belonged to a gang of dacoits sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits and committed the following dacoities viz., in the house of Keddarnath Poddar, at Kishtodebpore, thannah Umbika, zillah Burdwan, on the night of the 22nd June 1849; in the house of Womeschunder Bhuttacharge, at Soomra, thannah Banipore, zillah Hooghly, on the night of the 5th April, 1853; in the house of Gooroodial Kooloah, at Nagurgatchee, thannah Umbika, zillah Burdwan, on the night of the 5th July, 1853; in the house of Rajnarain Moduck, at Sookray Potee-gopeenuggur, thannah, Banipore, zillah Hooghly, on the night of the 29th October, 1853, and in the house of Jodoo Augooree, at Soomrah, thannah Banipore, zillah Hooghly, on the night of the 6th January, 1854.

Committing Officer.—Baboo Chunder Seekar Roy, deputy magistrate, under the commissioner for the suppression of dacoity at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 25th June, 1855.

For the additional sessions judge's remarks. See page 205 of the Nizamut Reports for August last.

With reference to the remarks recorded by the Nizamut

Adawlut in that case, the following explanation was submitted by the commissioner for the suppression of dacoity.

1855.

September 12.

Case of BYKUNT JUR BAGDEE.

"Baikunt Jur Bagdee was arrested in April, 1848, for dacoity in the house of Soobol Peramanick of Goarah, thannah Umbika. He had been recognised by the prosecutor, but that being the only evidence against him, he was released and enquiry ordered to be made into his character, when although there was not proof to convict, the magistrate directed the police should watch him, as a suspicious character.

"I venture to submit this information direct, as the additional sessions judge is unable on account of sickness to attend his office, and I am anxious that no further time should be lost. I regret that I should inadvertently have caused so much delay in the transmission of the information wanted."

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.) Having received the explanation required from the dacoity commissioner; and it appearing therefrom that the prisoner was arrested in 1848, in a case of dacoity, on the recognition of the prosecutor; the fact is a strong corroboration of the evidence now given against him by the approvers of his having been engaged in five dacoities; for though not sufficient alone to warrant a conviction, was in itself good as proof. We therefore convict the prisoner of having belonged to a gang of dacoits, and sentence him, as recommended by the sessions judge, to transportation for life.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND OTHERS

versus

SUFDUR ALI.

Bhaugulpore.

1855.

September 12.

Case of SUFDUR ALI.

The prisoner was convicted by the sessions judge of culpable homicide but acquitted on appeal, owing to the discrepancies in the evidence.

CRIME CHARGED.—Wilful murder of Musst. Choolho, deceased.

CRIME ESTABLISHED.—Culpable homicide of Musst. Choolho, deceased.

Committing Officer.—Mr. W. T. Tucker, magistrate of Monghyr.

Tried before Mr. W. Bell, sessions judge of Bhaugulpore, on the 20th April, 1855.

Remarks by the sessions judge.—This case also occurred in thannah Sheikpoorah.

It appears from the statement of the husband of the deceased that the prisoner's cattle fell sick, and he accused the Chumars

1855. September 12. Case of SUFDUR ALI.

of having poisoned it; on the day of the occurrence, the prisoner seized the deceased and some others, and took them to the saltpetre godown and there beat and ill-used them, from the effects of this ill-usage, the deceased became insensible and was taken home, but she died during the night.

Dr. Collins examined the body, but, owing to the advanced state of decomposition, was unable to ascertain the exact cause of death; there were contusions, and the woman was in a state of pregnancy, there were no appearances of disease. Witnesses, Nos. 1, 2, 3, 4, 5 and 6, all witnessed the ill-usage, the deceased was beaten with the stick of a castor-oil plant, and the stem of the leaf of a tar-tree, she became insensible and died; there are some differences in the testimony of these witnesses, but in the essential points they all agree, it is also shown that after her death, the friends were taking the corpse to the thannah, the prisoner interfered and prevented them doing so; the prisoner pleaded *not guilty*, before the sessions he adopted a different line of defence from that he had taken before the magistrate, where he pleaded *alibi*. Before the sessions, he declared the witnesses were all friends and relations of the prosecutor, or personal enemies of his, and he rested his defence on the improbability of the story, and his witnesses differ in their statements essentially.

The jury returned a verdict of guilty of wilful murder. I agreed with them in finding the prisoner guilty, but not of wilful murder. There are not the slightest grounds for supposing he intended to kill the deceased, he illegally seized her and beat and ill-used her and must be held responsible for the consequence. I therefore convict him of culpable homicide and sentence accordingly.

Sentence passed by the lower court.—Five years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.)* The discrepancies in the testimony of the eye-witnesses are so glaring, that they cannot be attributed to forgetfulness, or inattention in observing what occurred. The improbabilities are likewise great, that the prisoner having chastised three or four persons for the offence of which he suspected them, should wreak his vengeance on the deceased, a defenceless woman, far gone with child. Moreover, the evidence of the civil surgeon shows that the slight marks of violence, observable on the body, could not have been the cause of death. Disbelieving the evidence of the eye-witnesses, we acquit the prisoner and order his release.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

DIBBA DASS (No. 1,) GOUREE DASS (No. 2,) BEEDAH DASS (No 3,) AND BEERBHUDDER NAEK (No. 4.)

Cuttack.

1855.

September 15.

Case of DIBBA DASS and others.

No grounds for interference.

CRIME CHARGED.—Prisoners, Nos. 1, 2 and 3, 1st count, with having, on the night of the 23rd February, 1855, corresponding with 13th Falgoon, 1262, U. Friday, severely wounded with a *kutree* witnesses, Nos. 1 to 4; 2nd count, aiding and abetting in the above crime. Prisoner No. 4, with aiding and abetting the prisoners, Nos. 1, 2 and 3, in wounding the above mentioned, on the 23rd February, 1855.

CRIME ESTABLISHED.—Prisoners, Nos. 1, 2 and 3, having, on the night of 23rd February, 1855, corresponding with 13th Falgoon, 1262, U. Friday, severely wounded with a *kutree* witnesses Nos. 1 to 4; prisoner No. 4, aiding and abetting the prisoners Nos. 1, 2 and 3, in wounding the above mentioned.

Committing Officer.—Mr. V. H. Schalch, officiating magistrate of Balasore.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 24th May, 1855.

Remarks by the sessions judge.—The circumstances which are said to have led to the occurrence of the offences charged are these: Dassruthy Mharta, zemindar of Killah Patna, being desirous of re-establishing an old *haut* at Joraghureeah within his estate, sought the assistance of the Rajah of Killah Neelghur to carry out his wishes, and on the 23rd February last, when Dikree Jenna, with his wife and two sons, were proceeding to the Beldah or Toraghureeah *haut* within the estate of their own zemindar with baskets, &c., for sale, Beerbhudder Naek, prisoner No. 4, the tehseeldar of the Rajah of Killah Neelghiri accosted them and told them to go to the Joraghureeah *haut;* and on their refusing to do so, he threatened to visit them at their house and make them feel the consequence of their disobedience, or made use of language to the same effect. And at one *praher* or between 9 and 10 o'clock that night, the said Beerbhudder Naek, in company with about twenty others, among whom were the prisoners Nos. 1, 2 and 3, went to Dikree Jenna's house and asked for a light, and on his going out of the house with the light, he was assaulted and wounded across the face and left temple with a *kutree* by Dibba Dass, prisoner No. 1, and on his wife and sons, witnesses Nos. 2, 3 and 4, following him to ascertain the cause of the disturbance, they also one after another

1855. September 15. Case of DIBBA DASS and others.

were wounded. After which the village chowkeedar Ram Jenna and others ran to the spot and arrested the prisoners Nos. 1, 2 and 3, and 4, with the others, absconded.

The prisoners all pleaded *not guilty*.

Nos. 1 and 3, who are father and son, alleged that Sham Jenna, the village chowkeedar, and Sunnye Jenna were absent from their village Khairadee, at the time they are stated to have apprehended them; and that they were arrested by one Bhujjun Jenna, as they were returning home along the road from the Toraghureeah *haut*, and taken to the house of Pandub Samul at Chuttrah, where Sham Jenna, chowkeedar, was engaged cooking a goat, and he told Bhujjun Jenna to take them to the house of Mahadeb Mahapatur Surburakar, where they met Sooruj Mhaintee, the *Chamkurun* or gomashta of the Munglepore zemindar, who on asking Bhujjun Jenna the cause of his bringing them, was told in reply, that they had been brought, because they would neither go to the Joraghureeah *haut* or pay *russoom* for passing through his master's estate. Whereon the Chamkurun directed Panoo Raot to beat them, and in the mean time Gouree Dass, prisoner No. 3, brother to Dibba Dass, arrived and enquired of the Chamkurun what he meant by demanding *russoom* from people for passing along the road, and the Chamkurun then ordered him also to be beat, and while this was going on, Sham Jenna chowkeedar, arrived with Dikree Jenna and his family, the four wounded persons, and accused them with having wounded them; on which they were confined inside an amber or granary, and Sham Jenna hastened to the *ghur* of the zemindar, the Mungulpore Boenya, and sent his amlah, who during the night concocted a story and tutored certain witnesses to depose to the truth of it, and in the morning sent information to the thannah.

Prisoner No. 2, stated that he was apprehended at the house of Rajun Samul at Chuttrah by Ghunnoo Jenna, who took him to the house of Mahadeb Surburakar, where the Chamkurun ordered him to be beat, because he went to the Patna, (Joraghurreeah) and not to Toraghureeah *haut*, after which Sham Jenna brought some wounded persons to the house, &c. The rest of his statement being to the same effect as those made by prisoners Nos. 1 and 3.

The prisoner No. 4, pleaded an *alibi*, stating that he was at a place called Taldhee, superintending the collection of wood for the use of the Rajah of Neelghiri from the 4th to the 17th Phalgoon.

The civil assistant surgeon deposed that the wounds, which were all inflicted on the heads of the several parties, and which penetrated through the scalp to the bone, though severe, did not primarily endanger life, though they might have done so by their secondary effects by producing erisypelas.

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September 15.

Case of DIBBA DASS and others.

The *futwa* of the law officer convicts the prisoners of the crimes charged.

The real facts of this case, owing to the conflicting statements made by the prisoners Nos. 1, 2 and 3, before the police and this court (their statements before the magistrate correspond in all material points with those made before this court as above narrated) are not so clear as could be desired, but when influential persons such as Beerbhudder Naek, the prisoner No. 4, is concerned in any case, and time and opportunity are afforded them to concoct stories towards their own exculpation, it is next to impossible to fathom their machinations or distinguish perfectly truth from falsehood.

However, from the general circumstances attending the case, and the evidence of the witnesses, Nos. 1 to 5, I consider it to be established that when the said witnesses were going to the Toraghureeah *haut*, the prisoner No. 4, in company with certain others, accosted them and told them to go to the Joraghurreah *haut*, and that on their refusing to do so, he threatened to visit them at their house that night. And from the evidence of the said witnesses, which is corroborated by the wounds on the heads of Nos. 1 to 4, as well as from the evidence of witnesses Nos. 7, 8 and 9, it is proved that in accordance with the threat of the said prisoner No 4, a number of persons went to the house of Dikree Jenna, witness No. 1, and asked for a light, and that on his taking them a light, he was assaulted and wounded, as were also his wife and two sons on their going out of the house to ascertain the cause of the noise occasioned by the attack on Dikree Jenna.

Moreover the prisoners, Nos. 1, 2 and 3, who it appears from the evidence of the witnesses Nos. 1 and 2, were with the prisoner No. 4, at the time he threatened them on their way to the *haut*, were apprehended by the village chowkeedar, Sham Jenna, aided by the inmates of the house and other villagers at the time of the occurrence. And in their answers taken by the police, though they denied wounding Dikree Jenna and his family, or actually being engaged in the assault, they stated that they were told by the prisoner, No 4, at the Joroghureeah *haut* to accompany him and certain others and attack the house of Dikree Jenna, and they endeavored to account for some marks of blood detected on their clothes by stating that it had issued from their own persons when they were beat by order of the prisoner No. 4, for refusing to accompany him. Besides this, the wounded persons deposed generally that Beerbhudder Naek gave orders to the other prisoners at the time of the occurrence to attack and assault them. And witnesses Nos. 7, 8 and 9, deposed that they recognized him as he was absconding from Dikree Jenna's house.

And whereas the prisoners Nos. 1, 2 and 3, stated when first

1855. September 15. Case of DIBBA DASS and others.

asked by the joint-magistrate, who recorded their answers, whether they had any witnesses in support of their assertions, they replied that they had not; the witnesses subsequently cited by them deposed before this court that they knew nothing whatever about the matter to which they were called to depose, viz., as to where Sham Jenna and Sunye Janna, who are said to have arrested them, were at the time of the occurrence.

And though the witnesses cited by the prisoner No. 4, to establish his *alibi*, stated that the prisoner was at Taldhee from the 4th to the 17th Phalgoon, they entirely failed to satisfy the court as to the truth of their statement, three different witnesses having positively sworn that the said prisoner lodged during the whole of the above period in the houses of three distinct individuals.

Therefore, though I do not think it indubitably proved by whom among the prisoners the wounds on the several persons were inflicted, I consider it clearly established that the prisoners, Nos. 1, 2 and 3, took an active part in the assault in which the witnesses Nos. 1, 2, 3 and 4, were wounded, and that the prisoner No. 4, was also present aiding and abetting by instigating and ordering the assault, and in concurrence with the *futwa*, I sentence each of the four prisoners to three years' imprisonment, and further that the prisoners Nos. 1, 2 and 3, pay a fine of Rs. 50 each and the prisoner No. 4, a fine of Rs. 100 within ten days from the present date or to undergo the imprisonment with labor till the fine is paid or the sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to interfere with the conviction and sentence in this case.

The appeal is therefore rejected.

PRESENT :

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

NARAIN BEHRA (No. 5,) ANUNT MULLICK CHOKEDAR (No. 6.)

Cuttack.

1855.

September 15.

Case of NARAIN BEHRA and another.

There being no proof that the perjury charged was on a *material* point, the prisoners were acquitted.

CRIME CHARGED.—No. 5, perjury, in having on the 7th June, 1855, deposed under a solemn declaration, taken instead of an oath, before the joint-magistrate of Cuttack that his name was Dass Behra; such deposition being false, and having been intentionally and deliberately made on a point material to the issue of the case. No. 6, subornation of perjury, in having on the 7th June, 1855, intentionally and deliberately brought forward and caused the prisoner, No. 5, to give false evidence, and who accordingly deposed on a solemn declaration taken instead of an oath before the joint-magistrate of Cuttack, that his name was Dass Behra; such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

Committing Officer.—Mr. W. J. Longmore, joint-magistrate of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 13th July, 1855.

Remarks by the sessions judge.—The particulars of this case, as described by the committing officer, are as follows:

"On the 8th of May last, Pooree Sein and Debadee Raot reported at thannah Asserissur that in consequence of prisoner, No. 6, Anund Mullick chowkedar, neglecting to go his rounds, a number of thefts had been committed in mouza Poonaparra. On investigation by the darogah being completed, prisoner, No. 6, was sent for by the magistrate on the 22nd of May. On the arrival of the witnesses, their depositions were taken and the defence of prisoner, No. 6, was recorded. The case was made over to me by the magistrate, when prisoner No. 6, cited Dass Behra and others as his witnesses. They were sent for through the darogah, who sent them in to the joint-magistrate, together with his witnesses, Dass Behra and others. On 7th of June last, the prisoner, No. 6, caused the evidence of his witnesses to be taken, when prisoner No. 5, Narain Behra, concealed his right name, and assumed the name of Dass Behra, and, as such, gave his evidence on oath. When the depositions were brought to be attested by me, Mohadeib Sein, son of Pooree Sein, deposed that the name of prisoner, No. 5, was Narain Behra, and not Dass Behra. On being questioned as to his real name, prisoner,

1855. September 15. NARAIN BEHRA and another.

No. 5, stated that prisoner, No. 6, Anund Mullick chowkedar, who had been dismissed from Govennment employ for neglect, told him to conceal his real name and assume the name of his brother, Dass Behra, and that he did so, and gave his evidence on a solemn declaration taken instead of an oath, in the name of Dass Behra, prisoner, No 6, caused the prisoner, No. 5, to give his evidence in his presence From the evidence of the witnesses, and the general circumstances of the case the charges, noted in the calendar, having been proved against the prisoners, they were committed to take their trial at the sessions, on the 29th of June, 1855, corresponding with 17th Assar 1262 U."

I consider the crimes charged against both prisoners proved, from the evidence of the witnesses, the confession of the prisoner Narain Behra, No. 5, and the circumstances of the case; and, in concurrence with the *futwa*, I sentence them to three years' imprisonment each with labor in irons But, with reference to the facts of the case, one year's imprisonment with labor in irons, would, in my opinion, be an adequate punishment and I beg to recommend the same

Remarks by the Nizamut Adawlut—(Present: Messrs. H. T. Raikes and B J Colvin) It does not appear how the perjury charged was on a point material to the issue of the case. The prisoner, No 5, may have given a false name, and attempted to personate his brother, but as it is no where shewn that greater credence would have been given to his evidence under the fictitious name assumed by him, than under his own, the falsehood is not material and is not punishable as perjury, False personation is a distinct offence and cannot be considered on the present charge preferred against the prisoner, as the principal charge is not established, the subornation on which the prisoner No. 6, has been convicted must necessarily fail.

We acquit both the prisoners

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT

versus

JATRAH SIRDAR CHOWKEDAR.

24-Pergunnahs.

1855.

September 15.

Case of JATRAH SIRDAR CHOWKEEDAR.

The act charged against the prisoner was held not to amount to the legal offence of uttering a forged deed.

CRIME CHARGED.—1st count, forgery, in having fraudulently altered a written paper, containing the names of villagers and the amount of chowkedaree tax to be paid by them; 2nd count, procuring and causing the above forgery; 3rd count, uttering the above forged paper, knowing it to have been fraudulently altered; 4th count, fraud in having by means of an altered list or paper realized and attempted to realize more than the amount due to him as village chowkedar.

CRIME ESTABLISHED.—Uttering a forged paper, knowing the same to be forged and fabricated.

Committing Officer.—Mr. H. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 21st May, 1855.

Remarks by the additional sessions judge.—The prisoner is the chowkedar of the village Footeegoodah. According to the general custom, in the district of the 24-Pergunnahs, he received, at the beginning of the Bengalee year, a written paper containing the names of the village residents and the chowkedaree assessment he was to receive from each. This paper is generally drawn up by the zemindar's agents, and there are always three copies of it. One copy is sent for record to the magistrate, another copy is kept at the thannah, within which jurisdiction the village lies, and a third copy, after being sealed and signed by the thannah darogah, is given to the village chowkedar, that he may collect his chowkedaree dues accordingly.

The witness, No. 7, Bhejun Khan, a thannah burkundaz, was passing the village, when he heard a dispute going on between witnesses, Nos. 5 and 6 and the prisoner. The former alleged they had nothing to pay, the latter insisted that a balance was due. To settle the matter in altercation, the burkundaz asked the chowkedar for his paper of assessment. This was immediately brought by the chowkedar, but as it presented plain marks of having been altered, and the amount leviable from each of the witnesses Nos. 5 and 6, was greater than what they had at first been told it was, the burkundaz conveyed the chowkedar and the witnesses to the thannah, in order that the assessment paper might be compared with the copy at the thannah.

1855. September 15. Case of JATRAH SIRDAR CHOWKEEDAR.

The papers were found not to correspond. The paper, of which the chowkedar had possession, has been altered in thirteen places, each alteration being for the chowkedar's advantage.

The prisoner has been committed on four counts, viz. for forgery, for procuring the forgery, for uttering, and for fraud.

It has been proved that the prisoner demanded the sum of an alleged balance of chowkedaree wages from several persons. He produced in support of his demand a paper, which, it is abundantly evident, has been altered in several places.

The prisoner's defence is that the paper was altered by witness, No. 12.

The prisoner cannot write; he could not therefore have made the alterations and cannot therefore be held guilty of the forgery. There is no evidence that he procured the forgery, nor is there legal proof that he defrauded any body, or attempted so to do, several witnesses have deposed what they each paid, and what they were each called upon further to pay; but no witness can say what the other paid, or whether the sum demanded from the other was really not due. The *futwa* therefore declared these counts not substantiated; but it found the prisoner guilty of uttering a forged paper, knowing it to be false and fabricated. That the assessment paper in the chowkedar's keeping has been forged is evident from its disagreement with the copy kept at the thannah, and that kept in the magistrate's office. The party, witness No. 11, whose signature the three papers bear, has deposed that the three papers were originally alike, and that neither of them had erasures or alterations. Its production, in support of a demand made, is an uttering, convicting the prisoner, then of uttering a forged paper, knowing it to be false and fabricated. I sentence him to three years' imprisonment, and to pay a fine of 30 Rs. within seven days and in default to labor till the fine be paid.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The Court, having considered the proceedings in this case and the explanation of the additional sessions judge, in reply to their resolution of the 17th* ultimo, record the following order

* *Resolution of the presidency court of Nizamut Adawlut.*—(Present: Messrs. H. T Raikes and B. J. Colvin.) No. 753, dated the 17th August, 1855.

The Court, having perused the papers connected with the case of Jatrah Sirdar, chowkedar, observe that the additional sessions judge, in his remarks on this trial, has recorded as follows, "The prisoner cannot write, he could not therefore have made the alterations and cannot therefore be held guilty of the forgery. There is no evidence that he procured the forgery, nor is there legal proof that he defrauded any body, or *attempted so to do.*" The additional sessions judge, however, convicts him of uttering a forged paper, "knowing it to be false and fabricated." If the forged paper was produced with the object of supporting an extortionate demand, there

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Case of JATRAH SIRDAR CHOWKEEDAR

The prisoner, a village chowkedar, was seen *accidentally* by a thannah burkundaz disputing with a couple of villagers regarding his chowkedaree dues The burkundaz interfered and desired the prisoner to show him the assessment list of the village, which every chowkedar holds, and the prisoner went to his house and brought it In this list, it appears various erasures and alterations had been made, enhancing the rates payable by the villagers, and on this ground the prisoner was tried on the charges entered in the calendar

The additional sessions judge has convicted the prisoner of "uttering a forged paper, knowing it to be false and fraudulent"

The grounds of the conviction are stated by him to be, that the document was proved to be forged that the presumption was strongly in favor of the prisoner having been cognizant of the forgery, and it "was produced by him before the burkundaz as entitling the prisoner to demand whatever amounts were entered in the paper, which amounts had been falsified with the intent of supporting a fraudulent demand"

In the additional sessions judge's estimation therefore, the producing this list, with its false entries before the burkundaz, constitutes the uttering of which he has convicted the prisoner

It appears, however that the burkundaz was only accidentally present when all this took place that he was neither author

must have been an attempt to defraud, but the additional sessions judge states that there is no proof of such attempt, and the production of the paper would therefore appear to have been objectless and consequently is not an uttering with fraudulent intent and is not punishable. The proceedings of the additional sessions judge seem to the Court inconsistent as far as the remarks, above given, allow them to judge of the merits of the case, and the Court therefore direct the additional sessions judge to explain what *criminal* circumstances are, in his opinion, proved to justify a conviction of *fraudulently* uttering as recorded by him

From the additional sessions judge of the 24 Pergunnahs to the Register to the Nizamut Adawlut No 90

I have the honor to acknowledge the receipt of the Court's resolution No 753, of the 17th August 1855 calling for an explanation, in connection with the trial, before my court, of Jatrah Sirdar chowkeydar

There were witnesses who each said *for himself* that the prisoner tried to defraud him, but no witness, as observed by me in my original remarks, was witness to such attempt at fraud made upon any one but himself. This was not legal proof that the prisoner attempted to defraud any one

Nevertheless I convicted the prisoner of uttering a forged document, knowing it to be false and fraudulent My grounds for the conviction were these The document was proved to be forged There was presumptive proof that the prisoner knew it to be so That it was fraudulent is sufficiently evident by the items in it having been altered and enhanced It was produced before the burkundaz as entitling the prisoner to demand whatever amounts were entered in the paper, which amounts had been falsified with the intent of supporting a fraudulent demand I hold therefore, with every deference for the Court's opinion, that the prisoner is guilty of uttering a forged paper knowing it to be false and fraudulent.

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September 15. Case of JATRAH SIRDAR CHOWKIEDAR.

ised to demand a sight of the list, nor was he employed or called upon either, directly or indirectly, to enforce it; his having seen the list in the way he did, was no more than the same act by any other person, this then is in itself insufficient to establish the offence of uttering, and, as it does not appear that the villagers ever saw the list or *what* demand was actually made on them, whether in accordance therewith or not; the additional sessions judge having considered the fact of the false entries therein only, we are of opinion there is no proof of payment having been demanded on *the authority* of this document, or of any claim having been founded upon it, so as to give effect to the forgery and thereby complete the crime.

The prisoner must be acquitted.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

BUKHTAR.

Patna.

1855.

September 15. Case of BUKHTAR.

Sentence reduced on recommendation of the sessions judge.

CRIME CHARGED.—Perjury, in having on the 15th June, 1855, deposed under a solemn affirmation taken instead of an oath before G. D. Wilkins, Esq., officiating sessions judge of the city of Patna. that he was with Chumun in the grog-shop, and that he heard Chumun and Jhuggur talking together, whereas he and Chumun were never for a moment together in the said grog-shop, such deposition being false and having been intentionally and deliberately made, on a point material to the issue of the case.

CRIME ESTABLISHED.—Same as the crime charged.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 13th July, 1855.

Remarks by the officiating sessions judge.—The prisoner pleads guilty in this case (see remarks on case, calendar No. 7, for May, 1855,) viz. that he stated falsely on oath, on the 18th June, 1855, in the trial of Chumun Muhtoe, *versus* Jhuggur, that he was present in the grog-shop at Goshain Mutt, when the prosecutor, Chumun, was there talking to the prisoner, Jhuggur; such false statement being most material to the issue of the case, inasmuch as it was an object to prove the prisoner, Jhuggur, had found out in the grog-shop from the prosecutor that he was carrying about with him a large sum of money.

I have tried this case with a jury, the law officer being absent from sickness.

In concurrence with their verdict, I convict the prisoner of the crime charged and sentence him to three years' imprisonment without labor, (on account of advanced age) at the same time forwarding a recommendation to the sudder Court, under Regulation XVII., of 1817-9-3, for a mitigated imprisonment of six months first, on account of the prisoner's actual age (about 67 or 68,) and aged appearance, and secondly on account of his confession.

1855.

September 15.

Case of BUKHTAR.

This committal was made prior to the final disposal of the original trial.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) In conformity with the recommendation of the sessions judge, we sentence the prisoner to six months' imprisonment, from 13th July last.

PRESENT.

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KANTH SAMUL (No. 2,) SOODERSUN JENNA (No. 3,) MOHUNT JUGATANUND DOSS (No. 4,) GUDYE NAEK (No. 5,) AND PUREE SAHOO (No. 6.)

Cuttack.

1855.

September 17.

Case of KANTH SAMUL and others.

Conviction on strong presumption affirmed.

CRIME CHARGED.—Prisoner No. 2, 1st count, with having, for his own benefit, forged or caused to be forged a deed of sale A. dated 22d August, 1853, corresponding with 9th Bhadruh 1260, U.* *and with having forged or caused to be forged a mookhtearnamah B., dated 27th September, 1853, corresponding with 13th Assin 1261, U for the purpose of registering the said document A.; 2nd count, with having caused the said forged deed A. to be registered by the register of deeds at Cuttack knowing it to be forged and fraudulent; 3d count, with having caused the prisoners Nos. 1 and 5, to attest on oath the said forged documents, A. and B, on the 28th of September, 1853, before the register of deeds at Cuttack;* 4th count, with aiding and abetting in the issue and publishing of the forged deed of sale A, dated the 22d August, 1853, corresponding with the 9th

* The charges and portions of charges in Italics have been thus printed because they related to matters which were either not before the joint-magistrate and consequently were cognizable by him, or should have formed a distinct charge of perjury, likewise because the prisoners were at close of the trial, only called on to plead to the charges in Roman character which relate to the forged document filed in the foujdary court.

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Bhadoon 1260, by stating before Mr. T. B. Lane, assistant exercising the powers of a joint-magistrate, that the said deed of sale A,* was a genuine document and that it had been executed in his favor by Hurrikishen Doss, and by his having on the grounds of the said deed A, executed another deed of sale M, in favor of Soodersun Jenna, prisoner No. 3, notwithstanding he well knew that the said deed of sale A, is a forgery.

Prisoner, No. 3, 1st count, with knowingly having caused prisoner, No. 4, to file the said forged deed of sale, marked A, for his own advantage before the joint-magistrate of Cuttack, in case No. 9, of 1854, under Act IV, of 1840, thereby uttering the said forged document; *2nd count, with subornation of perjury, in having on the 14th June, 1854, intentionally and deliberately brought forward, and caused the prisoners, Nos. 4, 5 and 6, to give false evidence and who accordingly deposed on a solemn declaration taken instead of an oath before T. B. Lane, Esq., assistant exercising powers of a joint-magistrate at Cuttack, in a case under Act IV, of 1840, pending before him, that the witness, No. 1, executed the deed of sale, marked A. in favor of prisoner, No. 2* Prisoner No. 4, 1st count, with having been an accomplice in the said forgery, by affixing his signature to the forged documents, marked A and B, knowing that they were forged; *2nd count, with being an accomplice in the issue of the said forged document*, A, *by aiding and abetting the prisoner No. 2, in causing the said document to be registered, by having on the 28th of September, 1853, under a solemn declaration taken instead of an oath, attested the forged documents, A and B, before the register of deeds at Cuttack;* 3rd count, with having knowingly filed on behalf of prisoner, No. 3, the said forged deed of sale A, in case No. 9, of 1854, under Act IV, of 1840, pending before the joint-magistrate of Cuttack, thereby uttering the said forged deed; *4th count, with having on the 14th of June, 1854, under a solemn declaration taken instead of an oath, before T. B Lane, Esq., assistant exercising powers of a joint-magistrate, falsely deposed that No. 1, witness, executed the said forged document, A, in favor of prisoner, No. 2.* Prisoner No. 5, 1st count, with having been an accomplice in the said forgery, by affixing his signature to the forged documents, A and B, knowing that they were forged; *2nd count, with having been an accomplice in the issue of the said forged document, A, by aiding and abetting the prisoner, No. 2, in causing the said document to be registered by having on the 28th April, 1853, under a solemn declaration, taken instead of an oath, attested the forged documents, A and B, before the register of deeds at Cuttack; 3rd count, with having on the 14th of June, 1854, under a solemn declaration taken instead of an oath, before T. B. Lane, Esq., assistant with powers of a joint-magistrate at Cuttack, falsely deposed that the witness, No. 1, executed the*

said forged document, A, in favor of prisoner, No. 2. Prisoner No. 6, 1st count, with having been an accomplice in the forgery by affixing his signature to the forged document, A, knowing that it was forged; *2nd count, with having on the 14th of June, 1854, under a solemn declaration taken instead of an oath, before T. B. Lane, Esq., assistant with powers of a joint-magistrate of Cuttack, falsely deposed that witness, No 1, executed the said forged document, A, in favor of prisoner, No 2.*

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CRIME ESTABLISHED.—Prisoner, No. 2, of aiding and abetting in the fabricating and issuing and publishing of a forged deed of sale. Prisoner, No. 3, of uttering and publishing a forged deed of sale. Prisoner, No. 4, of having been an accomplice in the fabrication of a forged deed of sale; and likewise of having issued and published the said forged deed. Prisoners Nos. 5 and 6, of having been accomplices in the fabrication of a forged deed of sale.

Committing Officer.—Mr. W. J. Longmore, joint-magistrate of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 29th June, 1855

Remarks by the sessions judge.—The following is a transcript of the particulars of the case and grounds of commitment recorded by the joint-magistrate.

"Soodersun Jenna, prisoner, No. 3, brought two cases, Nos 9 and 26, under Act IV. of 1840, against Mohunt Hurrikishen Doss, witness No 1, and Kanth Samul, prisoner No. 2 In case No. 9, Soodersun Jenna caused the two deeds of sale marked, A and M, to be filed in the office of the joint-magistrate of Cuttack, by Mohunt Jugotanund Doss, prisoner, No 4

"The prisoners Nos 4, 5, and 6, attested the document, marked A, before Mr Lane, assistant with the powers of a joint-magistrate. In case No. 9, Mohunt Hurrikishen Doss, witness No 1, pronounced the document A, to be a forgery and stated that he did not sell the property noted in it to Kanth Samul, prisoner, No. 2; that he did not write the said deed of sale, that he did not appoint a mookhtear to register the said deed of sale; and that the deed of sale and *mookhtearnameh* are both forgeries. The cases, Nos. 9 and 26, under Act IV. of 1840, were dismissed by Mr Lane, on the 6th of July, 1854, and on investigation was ordered to prove whether the deed of sale, marked A, was a forgery or not. On the 28th of October, 1854, the case of forgery was struck off the file. Mohunt Hurrikishen Doss appealed to the judge against the order of Mr. Lane, striking the case off the file, who, on the 3rd December, 1851, sent the case back to be re-investigated The magistrate of Cuttack sent for the *mookhtearnameh*, marked B, from the judge's court, and made the case over to me for trial and decision. In my opinion, the documents, marked A and B, are

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both forgeries, and the prisoners, Nos. 2 and 3, are the principals in the said forgery, inasmuch as they caused the prisoners, Nos. 4, 5 and 6, to attest the forged documents.

"My reasons for arriving at this conclusion, are these: 1st. From the documentary evidences, marked C, G and K, and from the general circumstances of the case, it is proved that the property noted in the deed of sale marked A, was the subject of dispute between Mohunt Hurrikishen Doss (witness No. 1,) and Soorjomonee Jenna, who is the nephew of Soodursun Jenna, prisoner No. 3, and a relative of Kanth Samul, prisoner No 2

"From 1849, to August 16th, 1853, there were civil cases pending between Hurrikishen Doss and Soorjomonee Jenna, and on the latter date, a decree was passed in favor of Hurrikishen Doss. Still Hurrikishen Doss, within six days after the decree in his favor, viz, on the 22nd of August 1853, is said to have sold the property to Kanth Samul, prisoner No. 2. I do not believe that the sale ever took place, and therefore, I pronounce the deed of sale to be a forgery.

"*2nd.* If the witness No 1, had really executed the deed of sale, marked A, in favor of prisoner No 2, and if he executed the *mookhtearnameh*, marked B, then no doubt the fact of a decree having been passed in favor of witness, No. 1, would have been mentioned And it is more than probable that witness No. 1, would have presented a petition in the civil court, admitting the sale of the property but nothing of the sort was done.

"*3rd.* On the 2nd March, 1854, prisoner No. 2, presented a petition marked F, in the Court of the Moonsiff of Kendraparah, setting forth that document marked A, was executed in his favor by witness, No 1, on the 25th of August, 1853, and that he had bought the right and interest, *wasilat* and costs, of witness No. 1, but on looking at the deed of sale marked A, it appears that it was written on the 22nd of August, 1853, and that nothing was stated regarding *wasilat* and costs.

"*4th.* From documents marked D, E, H, J, it appears that witness No. 1, did not obtain possession of the property, contained in the deed of sale, marked A before February, 1854. Still he is supposed to have sold the property to prisoner No. 2, on 22nd August, 1853, this is strange, and prisoner No. 2, is said to have sold the property to prisoner No. 3, on the 20th of January, 1854, corresponding with 9th Magh, 1261, U., though witness, No. 1, had never even obtained possession of the property!!!

"*5th.* The prisoners state that documents, A and B, were written at Cuttack, by witness No. 1, and that his signatures are attached to them. But it appears that witness, No. 1, was not at Cuttack, on the date or during the month in which documents, A and B, are said to have been written.

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"6th. The signature of witness, No. 1, on the documents, marked A and B, differs from that purporting to be his on the *mookhtearnamah*, marked I, bearing date the 10th May, 1851.

"7th. 'The two documents, A, and B, having been proved to be forgeries, and the prisoners, Nos. 4, 5 and 6, having deposed on oath to their being true, the prisoners were committed to take their trial at the sessions, on 30th April, 1855, corresponding with 19th Bysakh, 1262, U."

Before this court, Kanth Samul, prisoner No. 2, in answer to the 1st count, charged against him, pleaded *not guilty*, and stated that Mohunt Hurrikishen Doss executed the *cabalah* marked A, and the *mookhtearnamah*, B, for the purpose of getting the *cabalah* registered, and in answer to the 4th count, he also pleaded *not guilty*, and stated that the *cabalah*, A was not a forgery, and that Mohunt Hurrikishen Doss sold him the property therein referred to, and that he neither published nor caused to be published any forged document.

Soodursun Jenna, prisoner No. 3, in answer to the 1st count, charged against him, stated that he caused the *cabalah*, A, to be filed in the Act IV. case by Mohunt Jugotanund Doss, the prisoner No. 4, but the said *cabalah* was not a forgery.

Mohunt Jugotanund Doss, prisoner No. 4, pleaded *not guilty* to the forgery, and stated that Mohunt Hurrikishen Doss executed the *cabalah*, A, and that it was genuine, and in reply to the 3rd count, he stated that the said *cabalah* was given to him by Soodursun Jenna and that he filed, but that he did not know it to be a forgery.

Gudye Naek, prisoner No. 5, in answer to the 1st count, charged against him, stated that he did not know the documents, A and B, to be forgeries.

Purree Sahoo, prisoner No. 6, denied having any knowledge of the document, A, being a forgery.

The *futwa* of the law officer, which accompanies, convicts the several prisoners of the charges preferred against them (printed in Roman Character.)

The principal point to determine in this case is, whether the deed of sale, A, is a forged document, and for the following reasons, I entertain no doubt whatever, that it is so:—

1stly. Hurrikishen Doss has deposed on oath, that he did not execute the *cabalah*, A, or sell the land to which it relates to Kanth Samul, and that he was not at Cuttack on the date affixed to the *cabalah*. And the witnesses, cited by him to prove that he was not at Cuttack, have deposed in corroboration of his statement.

2ndly. The signatures to the *cabalah*, A, and *mookhtearnameh*, B, which the prisoners allege to be the signatures of Hurrikishen Doss, are quite different from the genuine signatures of the said Hurrikishen Doss affixed to the document I,

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and other papers bearing his signatures, which were called for from the record office of the civil court, and not only is the hand-writing of the signatures to the said documents, different from the hand-writing of the signatures to the *cabalah*, A, and *mookhtearnameh*, B, but there is no mark of *kur mala* affixed to them, as there is to the said papers, A and B.

3rdly. The *cabalah*, A, and *mookhtearnameh*, B, notwithstanding they are respectively dated the 22nd August and 27th September, (according to which an interval of one month and five days elapsed between the execution of the two documents) have both evidently been written with the same ink at one and the same time, and the signatures affixed to them, which are alleged to be those of Hurrikishen Doss, have likewise been written with the same ink and at the same time, which is directly opposed to the statement of the prisoners and their witnesses.

4thly. It is evident from the answer of Radhamohun Anch, in whose name the *mookhtearnameh*, B, is drawn out, which was taken before the joint-magistrate, on the 20th April, 1855, that the *mookhtearnameh*, B, was given to him by Gudye Naek, the prisoner, No. 5, whose name is inserted in the document, A, as one of the attesting witnesses, and that he, the said Radhamohun Anch, did not see Mohunt Hurrikishen Doss, whereas it is perfectly incredible that if, as alleged by the prisoners and their witnesses, Hurrikishen Doss executed and signed the *mookhtearnameh*, B, at Cuttack, he would not have executed it in the presence of the said Radhamohun Anch and have delivered it to him with his own hands.

5thly. It is evident that a dispute existed between Mohunt Hurrikishen Doss and Soorujmonee Jenna, about the *thakoor* and land referred to in *cabalah*, A, from the 17th December, 1849, when Soorujmonee instituted a case, under Act IV. of 1840, against Hurrikishen Doss, and subsequently got possession, to the 16th August, 1853, when Hurrikishen Doss obtained a final decree in the court of the Principal Sudder Ameen on account of the said *thakoor* and land, and it is highly improbable that Hurrikishen Doss, who is by no means a needy person, would sell the *thakoor* and land, which he had taken so much trouble to obtain possession of, six days after it had been decreed in his favor.

6thly. It is proved from the evidence of Mohunt Hurrikishen Doss and other witnesses, and likewise from the documents, E, G, and J, and the decree execution case instituted by Hurrikishen Doss in the court of the Moonsiff of Kendraparah, which was called for during the trial from the record office of the civil Court, that the said Hurrikishen Doss did not get possession of the property referred to in *cabalah*, A, until the February, 1854; and it is likewise proved from the petitio

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presented by the prisoner, No. 2, on the 2nd March, 1854, to the Moonsiff of Kendraparah, applying to be put in possession of the disputed land, that the said Kanth Samul never was in possession, and consequently that the sales said to have been effected by Hurrikishen Doss, on the 22nd August, 1853, in favor of Kanth Samul, and by Kanth Samul, on the 9th Magh, 1261, corresponding with the 20th January, 1854, in favor of Soodursun Jenna, are manifestly false.'

7thly. The *cabalah*, A, bears date the 22nd August, 1853, notwithstanding which Kanth Samul, prisoner No. 2, in his petition, F, presented to the Moonsiff of Kendraparah, on the 2nd March, 1854, represented that the *cabalah* executed in his favor by Hurrikishen Doss was dated the 25th August, and he further stated that the said Hurrikishen Doss had transferred to him all his rights and interests in the decree obtained by him on account of the land referred to in the *cabalah*, including costs and *wasilat*, but there is no mention in the *cabalah* of such being the case. Hence it is evident that the *cabalah*, A, was not, nor ever had been, in his possession, but was in all probability in the possession of Soorujmonee Jenna, by whom and for whose benefit it was forged and drawn out *benamee*, in the name of Kanth Samul, who stands in the relationship of uncle to the husband of Soorujmonee Jenna's sister, in order to give plausibility to the transaction.

Lastly. Had Kanth Samul purchased the disputed *thakoor* and land from Hurrikishen Doss, on the 22nd August, 1853, and re-sold them to Soodursun Doss, on the 20th January, 1854, then Kanth Samul would not have petitioned, neither would be have had any right to petition the Moonsiff, on the 2nd March following, to put him, Kanth Samul, in possession. And had Soodursun Jenna, *who lives in the same house with his uncle, Sorrujmonee Jenna*, purchased it from Kanth Samul, he would most unquestionably have filed a petition of objection in the court of the Moonsiff, some time between the 20th January, the date of his alleged purchase, and the 15th February, during which time the Ameen, deputed by the Moonsiff to put Hurrikishen Doss in possession in execution of his decree of the 16th August, 1853, was engaged in settling the amount of *wasilat* payable by Soorujmonee Jenna, to the said Hurrikishen Doss.

For the foregoing reasons, and likewise the fact of Kanth Samul and Soodursun Jenna, prisoners, Nos. 2 and 3, the former of whom is a connexion by marriage, and the latter the paternal uncle of Soorujmonee Jenna, the individual ousted from the disputed *thakoor* and land by the decree in favor of Hurrikishen Doss, having simultaneously endeavoured to defraud Hurrikishen Doss of the property decreed, the one by petitioning the Moonsiff to put him in possession thereof, under pretence of having purchased the land from the said Hurrikishen, and the other by

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preferring a charge before the magistrate of having been forcibly dispossessed from the property in question by the said Hurrikishen Doss, there cannot, I think, exist the slightest doubt that the deed of sale, A, is a forgery.

I therefore, in concurrence with the *futwa* of the law officer, convict Kanth Samul, prisoner, No 2, of aiding and abetting in the fabricating and issuing and publishing of the forged deed of sale, A, dated 22nd August, 1853, well knowing it to be forged, by having stated before the joint-magistrate and this court, that the said *cabalah* was genuine and that it was executed in his favor by Hurrikishen Doss, and by having admitted before the joint-magistrate that he executed another *cabalah*, M, in favor of Soodursun Jenna, the prisoner, No. 3, on the grounds of the *cabalah*, A, likewise by his having attempted to get possession of the land referred to in the *cabalah*, A, by petitioning the Moonsiff of Kendraparah on the 2nd March, 1854, to put him in possession thereof, and strike off Hurrikishen Doss's name as the holder of the decree, and substitute his own in lieu thereof

Soodursun Jenna, prisoner, No. 3, of uttering and publishing forged deed of sale, A, knowing it to be forged, he having given it to his mookhtear, who filed it on his behalf in the suit instituted by himself, under Act IV. of 1840, to obtain possession of the land referred to in the said deed of sale.

Mohunt Jugotanund Doss, prisoner, No 4, of having been an accomplice in the fabrication of the forged deed of sale, A, by affixing his signature thereto as witness, and giving evidence in support of it before the joint-magistrate, and likewise with having issued and published the said forged deed, A, by filing it on the part of Soodursun Jenna, the prisoner No. 3, in case No. 9, of 1854, under Act IV. of 1840, notwithstanding he well knew it to be a forgery.

Gudye Naik, prisoner, No 5, and Purree Sahoo, prisoner, No. 6, of having been accomplices in the fabrication of the forged deed of sale, A, by affixing their signatures thereto, and giving evidence in support of it before the joint-magistrate, notwithstanding they well knew it to be a forgery.

And with reference to the prevalence of the crime of forgery, I sentence, Kanth Samul, No 2, Soodursun Jenna, No. 3, Mohunt Jugotanund Doss, No. 4, Gudye Naik, No. 5, and Purree Sahoo, No. 6 each to seven years' imprisonment with labor in irons, from the present date.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin) The circumstances of this case fully bear out the presumptions of the sessions judge, as to the guilt of the prisoners.

We therefore reject their appeal.

PRESENT:

A. DICK, Esq., SIR R. BARLOW, Bart., and J. H. PATTON, Esq., *Judges*.

GOVERNMENT and MOFEEZOODEEN

versus

KISHORE MAHOMED (No. 2,) ARMAN (No. 3,) SAREE MAHOMED (No. 4,) ASGUR (No. 5,) OSMOODIN (No. 6,) MONIROODDEEN (No. 7,*) NORAL GAZEE (No. 8,*) KALOO alias KAMEL (No. 9,) LALL MAHOMED (No. 10,) AFOZOODIN (No. 11,) BECHARAM KAPALEE (No. 12,) ARMAN 2nd. (No. 13,) KALEE PERSAUD ROY (No. 14,) and POORNO CHUNDER DOSS (No. 15.)

Backergunge.

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The prisoners were convicted by the sessions judge of dacoity and carrying off property to a large amount, and of forcibly seizing and carrying off two persons, and also of knowingly and wilfully receiving property obtained in the above dacoity.

In appeal, the sentence on most of the prisoners was upheld, but the party charged with instigating the crime was acquitted.

CRIME CHARGED.—1st count, Nos. 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13 and 15, wounding Kalachand Sirdar, and forcibly carrying him away on the 22nd of November, 1854, since which date Kalachand Sirdar has not been heard of; 2nd count, dacoity in the house of the prosecutor, plundering his property to the amount of Co.'s Rs. 23,942-4-0., wounding Kalachand Chung and forcibly carrying away Musst. Niljah; 3rd count, Nos. 2, 3, 4, 5, 6, 9, 10, 11, 12 and 13, knowingly and wilfully receiving and keeping property obtained in the above dacoity. No. 14, being accessary before and after the facts to the above crimes, and detaining Musst. Niljah in confinement in his house.

CRIME ESTABLISHED.—1st count, Nos. 2, 3, 4, 5, 6, 9, 10, 11, 12, 13 and 15, dacoity in the house of plaintiff and carrying off property to a large amount, and forcibly seizing and carrying away Kalachand Sirdar and Musst. Niljah: 2nd count, Nos. 2, 3, 4, 5, 6, 9, 10, 11, 12 and 13, knowingly and wilfully receiving and keeping property obtained in the above dacoity.

No. 14, being accessary before and after the fact to the dacoity in the house of plaintiff, and detaining Musst. Niljah in confinement in his house.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 1st May, 1855.

Remarks by the sessions judge.—This case was tried by me alone, under the provisions of Act XXIV. of 1843.

On a perusal of the foujdary record, I directed the officiating magistrate to substitute for the charge of "attacking and

* Acquitted by the Lower Court.

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plundering the house of prosecutor," "dacoity in the house of prosecutor;" for the features of this case fully disclose that degree of open violence which constitute the crime of dacoity, as defined in Section 3, Regulation LIII. of 1803.

The prisoners all denied the charges upon which they were arraigned.

This case, from the daring manner in which the outrage was committed, the large amount of property carried off and the notorious character of the prisoner, No. 14, Kalee Persaud Roy Chowdree, has created quite a sensation in the district.

The particulars are as follows:—Early on the morning of the 8th of Agran, 1261, corresponding with the 23rd of November, 1854, five or six boats filled with armed men appeared at Beeghai, in which village is situated the two storied *pucka* house of the prosecutor; this house is surrounded on three sides, the north, the south and the east, by a brick-wall, the entrance facing west. An attack was made on this house by a gang of armed men, stated to be from 100 to 150 in number, and headed by the prisoner, No 15, Poorno Chunder Doss and Mudden Sen gomashtas of the prisoner, No. 14; Kalee Persaud Roy Chowdree Kalachand Sirdar and witness No. 3 Kalachand Chung, attempted to oppose the entrance of the armed men; Kalachand Sirdar was soon overcome and was carried of in a wounded state (it is alleged) to the boats of the dacoits; Kalachand Chung was also slightly wounded, he retired into the house of prosecutor Niljah, witness No. 2, the grandmother of the prosecutor; attempted to bar the door of the *shah durwaza* or principal entrance, the dacoits thrust their *soofees* at her underneath the door and wounded her slightly in the foot, Niljah was soon obliged to relinquish her hold of the door which was burst by the dacoits; Niljah was then seized and carried off at once to the boats of the dacoits. The prosecutor who is a boy of fourteen years' of age, ran to the upper story of the house and from thence jumped down, his fall was broken by a "*mancutchoo*" tree, which is a yielding tree, and escaped through a back door in the northern outer wall. The dacoits, having obtained an entrance into the premises, commenced the plunder, doors and chests were broken, every crook and corner searched, the walls of a room, in the lower story and also in the upper story, were dug in the search for hidden treasure, wall-shades, hanging-lamps two lustres, and every thing that could be laid hands on, were carried off. The description of the house as given by the mohurrir of thannah Meerzagunge, proves an unusual degree of wanton destruction and violence.

Niljah, witness No 2, who is the guardian of the prosecutor, a minor, states her loss at Co.'s Rs. 23,942-4, of which 20,105, were cash and gold mohurs. Amongst a very large quantity of property carried off was an iron chest of European manufacture.

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The dacoits remained for a considerable period in the prosecutor's house; they then retired to their boats with the plunder; as they were pushing off, Gopal Singh, witness No. 45, a burkundaz of the Merzagunge thannah, who was about some police work, appeared in a boat, he sounded his drum, the dacoits abused him and made off, carrying with them Niljah Bebee, witness No 2, and Kalachand Sirdar; the latter party has not been heard of since the day of the dacoity. It appears that this Kalachand Sirdar is a *latial* by profession, he resides in the Fureedpore zillah, but in what village is not known. He was engaged by Niljah Bebee, witness No. 2, some months before the dacoity as a guard for her house, and was also occasionally employed to collect rent. Niljah was discovered by the witness No. 49, Abbass burkundaz, near the house of the prisoner No. 14, Kalee Persaud Roy Chowdree, who resides at Kulsokatee in the jurisdiction of the Augarea thannah; she was found on the 1st of December, 1854, some eight days after the dacoity. She was found alone, and the information which led to her being found was given to the witness, No. 49, Abbass burkundaz, by one Sazawal, who lives in Charwa, but whose evidence has not been recorded either in the magistrate's court or in this. I shall hereafter describe what befel Niljah from the time of her seizure to that of her release. I return to the enquiry conducted by the Meerzagunge police, into the dacoity in the prosecutor's house.

Notice of the dacoity was given at the Meerzagunge thannah on the same day, by Donai Chowkeedar, witness No. 1. The prosecutor was too frightened and distressed to accompany the chowkeedar. The mohurrir of the thannah arrived on the same day late in the evening at Beeghye, which is about six miles from the thannah. The prosecutor lodged his plaint, and the mohurrir inspected the premises: two burkundazes were deputed to Kulsokatee, where the prisoner No. 14, Kalee Persaud Roy Chowdree, resides, to look after Kalachand Sirdar and Niljah, they returned on the 24th of November and reported that they could find no traces of them. The acting darogah arrived at Beeghye on the 26th of November, and took up the enquiry, on the 27th November, the darogah proceeded to Kulsokatee, where he arrived on the 29th of November. On the 1st of December, Abbas, burkundaz witness No. 49, produced Niljah. The Meerzagunge police were unable to apprehend any of the principal dacoits, or to discover any of the property; here the enquiry, as far as the Meerzagunge police were concerned, ended. On the 5th of December, 1854, the witness, No. 52, Gooroodass Doss, was proceeding to join his appointment as acting darogah of thannah Gournuddy, "*en route*," he stopped at the village of Mustaferpore at a *ghat* near the Mustaferpore indigo-factory to cook his dinner; at the *ghat* he heard some boys, who were

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playing talking about some property that had been divided at Dutt *hat*. The conversation attracted the darogah's attention, he questioned the boys, but was unable to learn further than that a large quantity of property, amongst which were some writing-boxes, had been divided at the above *hat*. The darogah then proceeded to the Mustaferpore factory, from the people of the factory he heard that there was a rumour that the prisoner No. 6, Osmoodin, and No. 4, Saree Mahomed, and their gang had brought a large quantity of property; Dunoe Chung, witness, who is employed in the factory, informed the darogah that he had seen a party of men dividing property at Dutt's *hat*, but as they were armed the witness did not approach them, or ask any questions. The darogah reported these circumstances to the deputy magistrate of Madareepore, Baboo Gooroochurn Doss, who at that time was visiting his thannahs and was then at the Gournuddy thannah. This officer immediately directed the darogah to enquire into the case. The darogah first proceeded to the house of the prisoner, No. 4, Saree Mahomed, this man made a full confession, implicating the other prisoners, who have been convicted, and produced property, Nos. 1 to 5. As this prisoner's confession before the darogah of Gournuddy, led to the apprehension of most of the other prisoners and to the discovery of a considerable quantity of property, I give the heads of it. He states that early in Kartick 1261 B. S. he and Kishore Mahomed, prisoner No. 2, Arman prisoner, No. 3, Arman 2nd prisoner No. 13, Uzgur, prisoner No. 5, Osmoddy, prisoner No. 6, Afazooddin, prisoner No. 11, Kaloo *alias* Kamel prisoner No. 9, Lall Mahomed No. 10, Beecharam Kapalee, prisoner No. 12, Komuruddy, Koteshur Kapalee, Gobindo Kapalee and others, with Osimoody No. 6, as their leader, went in a boat in search of employment as *latials* to the house of prisoner, No. 14, Kalee Persaud Roy Chowdree; that he and others were engaged by the prisoner No. 14, on salaries ranging from seven to three rupees; that early in Uggran, they attacked and robbed the prosecutor's house; that the division was made at a *hat*, and that he obtained as his share four brass and copper utensils and a musquito-curtain. He stated that Osimooddy, prisoner No. 6, was the leader of the gang of *latials* to which he (the confessing) prisoner belonged, and that other gangs under other Sirdars accompanied the expedition. The darogah then proceeded to the houses of the prisoners Arman, No. 3, Kishore Mahomed, No. 2, and Arman 2nd No. 13; they told nearly the same stories, in their confessions, as the prisoner Saree Mahomed, No. 4; prisoners, Nos. 3, 2 and 13, produced property. No. 3, produced, No. 6, a brass *kulsee*, No. 2, produced from Nos. 7, to 10 and No. 13, Nos. 11 and 12. The darogah then went to the house of Osimoodin Sirdar, prisoner No. 6, in his house was found a very large quantity of property from No. 13 to

No. 109. Amongst this property I would particularly remark No. 40, 5 bonds for money due to the prosecutor in this case; No. 41, 3 bonds for money due to the witness Niljah, No. 2, grandmother of the prosecutor; No. 42, a *dakhilla* for rent paid for the prosecutor's land holding, No. 43, a *challan* of paddy; No. 47, a hanging lamp. No. 55, nine shields, No 59, a bunch of keys. The finding of the shields significantly points out the prisoner's profession. The bonds and *dakhillas* were found in a box also part of the plundered property The darogah then proceeded to the house of prisoner, Asgur, No 5, here Nos 111 and 112, were found. From thence the darogah proceeded to the house of Kumoruddy, who confessed to belonging to the gang of the prisoner No. 6, Osimoody, and produced three articles. This man escaped from the custody of the police burkundaz, and has hitherto eluded justice The darogah then proceeded to the house of the prisoner Kaloo *alias* Kamel, No. 9. The prisoner was not at home, his wife produced two articles, Nos 115 and 116, these were found in the *jungul* near the prisoner's house The darogah then went to the house of the prisoner Lall Mahomed, No 10; he also was not at home, his wife gave up Nos 118 to 127, and No 128, a box which was found in a tank, Nos. 129 to 130 were found in the house of one Kuleem, where they had been placed (so said his wife) by the prisoner Lall Mahomed, No 10.

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On the 16th December, the darogah, disguising himself, again went to the house of Osimoody, prisoner, No 6, the mother of the prisoner was overheard saying to another woman that, as Osimoody had been seized, it would be as well to sell the remaining plundered property, which had escaped attention, to raise funds to procure Osimoody's release, the next morning the mother of the prisoner, on being told that her conversation of the night before had been overheard, after some persuasion and threatening, produced the property, Nos 137 to 158 inclusive; these were buried in a large hole, and No. 159, a silver *haslee* weighing thirty-seven *tolahs*. The darogah then proceeded to the house of Beecharam, prisoner No 12, he confessed to being concerned in the dacoity, and produced his share of the booty, Nos. 160 to 162, subsequently Lall Mahomed, prisoner No. 10, and Kaloo *alias* Kamel, prisoner No. 9, were apprehended.

On the 19th of December, the darogah proceeded to the house of Hoojaye and Nazer, who were mentioned in the mofussil confession of the prisoner, Saree Mahomed, No 4; Hoojaye and Nazir were not at home, the wife and father of Hoojaye were at home, from them the darogah learnt that Hoojaye had brought home some of the plundered property, consisting of door-posts, boxes, brass *thals*, &c., on hearing of the capture of Osimoody, prisoner No. 6, the property had been removed to

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the house of Musst. Chand Bebee. The father of Hoojaye the accompanied the darogah to the house of Chand Bebee, wher was found in a chest, a large quantity of property, Nos. 165 to 211. In the house of Chand Bebee was found from Nos. 212 to 258. The house of the father of Hoojaye was also searched and Nos. 256 to 259, consisting of doors and door-posts and *sutrungees* were found, these were considered to be of so suspicious a character that they were sent to the magistrate for his inspection.

The darogah then apprehended the prisoner, Afazoodin, No. 11, he confessed and produced three articles of property Nos. 267 to 269. Hoojaye is waiting his trial before the magistrate, this man is mentioned by prisoner No. 4, as leader of another gang of *latials*, his name appears here as I wished to give a brief account of the whole of the proceedings of the Gourmuddy darogah, and here I must record that this officer has shewn great promptitude and zeal in the conduct of the investigation, it is almost entirely owing to his exertions, that the crime has been brought home to the prisoners.

I now proceed to remark upon the evidence before the magistrate and in this court There are, it must be admitted, some exaggerations and discrepancies, but, taking into consideration the suddenness of the attack the number engaged in it, the youth of the prosecutor, and the great age and sex of the principal witness, Musst Neelja, No. 2, I think that, with all the discrepancies, which, on a searching cross-examination by practised vakeels, will occur, there is evidence, direct and circumstantial, fully sufficient to convict all the prisoners, with the exception of No 7, Moniroodin, and No. 8, Moral Gazee, who have been acquitted by me.

Musst. Neelja, witness No 2, states that, after she was seized and placed on board one of the boats of the dacoits, she was first taken to the prisoner, No. 14, Kally Persaud Roy's cutcherry at Botolboonia, this cutcherry is about one *prohur* from Beeghai; there the dacoits *lagaoed* and dined at night. Neelja and her servant, Kallachand Sirdar, were put on board separate boats, a portion of the gang were put in guard over them, the rest of the gang with the booty, with the exception of the iron chest and the cash were left at Botolboonia. The iron chest and cash were put on board. They arrived at the house of the prisoner No. 14; next day, towards the evening, some people came from the house of the prisoner No. 14, and carried off the iron chest; Neelja and Kallachand were removed from the boats to the house of the prisoner, No. 14, and were kept for several days in restraint and under guard. In the day time they were taken to a deserted homestead near the house of prisoner, No. 14, and at night they were confined in a *packa dalon*. After some days, Neelja and Kallachand were again removed to a boat and

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taken to a village, the name of which is unknown to the witness, there they were kept two nights in the house of a person, name unknown, the party in guard then said it was time to produce Neelja, she was taken again to the house of the prisoner, No. 14, Kallachand Sirdar remained behind and was not again seen by Neelja, witness No. 2 On her arrival at the house of the prisoner, No 14, he is stated to have sent for her, and told her that he would send her to her home, and that she was not to tell the police that she had been kept under restraint, that she was then taken to the banks of a tank, near the house of the prisoner, No. 14, and left there. She was then and there found by the witness No. 49, Abbass burkundaz, who took her to the darogah: there are certainly some discrepancies between the statements of Neelja, witness No. 2, and Abbass burkundaz, No. 19, as to the exact spot and the distance from the house of the prisoner, No. 14, of the place where Neelja was found, but that she *was* found, and that in the vicinity of the house of prisoner, No. 14, alone and helpless and at a great distance from her own home, is clear.

The prisoners, No. 2, Kishore Mahomed, No 3, Arman, son of Khedir, No. 4, Saree Mahomed, No 5, Azgur, No 9, Kaloo *alias* Kamel, No. 10, Lall Mahomed, No 11, Alozoody, confessed both before the police and before the deputy magistrate, these confessions were voluntary and have been sufficiently attested. All of these prisoners either produced property or property was found in their houses, for the possession of which they cannot account. The evidence for their defence, which has been taken in this court, entirely fails to exonerate them, or to prove that the property, which in the sessions they declared to be their own, was so This property has been recognized by the prosecutor and the witnesses, Nos 2, 4, 6, 13 and 41, and that it was produced by the prisoners or found in or near their houses is also satisfactorily established, I therefore convict them on the counts noted in column 10, and pass sentence as stated in column 12.

No. 6, Osimoody, confessed before the police, but not before the magistrate. In this court he retracts his motussil confession which has been attested, and is above suspicion of having been extorted. This man is stated by the other prisoners, in their confessions, to be the leader of the gang He is a bold looking powerful fellow. A very large quantity of property was found in his house and was produced by his mother. The property has been recognized by the prosecutor, by Neelja, witness, No. 2, and by other witnesses. The fact of the bonds in the name of the prosecutor and of Neelja, of a hanging lamp and of some keys, which belong to the boxes and chests of the prosecutor that were broken open and plundered, being found in this man's house, alone proves his guilt. Further, nine shields were found

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in his house which shew that he is in the habit of keeping arms for his followers. I convict this prisoner on the counts noted in column 10, and, as he was the acknowledged Sirdar of the *latials* employed in the dacoity, I sentence him to an enhanced sentence as shewn in column 12.

Prisoners No 12, Becharam and No. 13, Arman, son of Bushye, confessed in the mofussil but not before the magistrate, their mofussil confessions are attested, and there is no proof of their having been extorted, these prisoners are named, as belonging to the gang in the confessions of the other prisoners and property belonging to the prosecutor was found in their possession. The defence set up in this court is that the property *chalaned*, belonged to the prisoners but the evidence cited by them to their defence fails entirely to prove this. I convict these two prisoners on the counts noted in column 10 and sentence them as shewn in column 12.

The prisoner, No 14, Kalee Persaud Roy Chowdree, is found guilty of being an accessary, before and after the fact, to the dacoity in the house of the prosecutor, and of detaining the witness Musst Neelju, No. 2, in confinement in his house, and is sentenced as shewn in column 12.

The character of this prisoner as a tyrant and an oppressor, is known throughout the district; he "once" was respectable and well to do in the world, he now lives by plunder. A list of the cases, in which this man has been concerned, is given in the margin. In 1817, he was committed to the sessions in a case of riot in which a life was lost. On that occasion the prisoner very narrowly escaped conviction, the evidence for the prosecution was considered discrepant and exaggerated, as all Indian evidence is apt to be, but that the riot was a fact, and that life was lost are established in the report of the judge of the day, dated 5th of September, 1817, No. 65. The judge in the 49th paragraph of that report observes, "regarding the person accused of instigating the riot, it is certainly difficult to resist the

No. 3, calendar for October, 1839, Government *versus* Kalee Persaud Roy. Charge Not attending to the repeated summons of the magistrate in the case of affray, attended with the culpable homicide of Joogee Mahomed.

No. 71, of 1844, Government *versus* Kalee Persaud Roy Charge Being a notorious peace-breaker and an oppressor of the ryots.

No 23, of 1844, Government *versus* Kalee Persaud Roy. Charge. Assembling armed men for the purpose of committing a breach of the peace.

No. 37, of 1846, Government *versus* Kalee Persaud Roy and others Charge Affray, &c

No. 4, calendar for September, 1847, Musst. Soobunja *versus* Kalee Persaud Roy and others. Charge. Attack, plunder, and wilful murder of Kooshye.

No. 5, calendar for ditto Musst. Armanee *versus* Kalee Persaud Roy and others. Charge. Wilful murder of Dolall Shuriff.

No. 17, of 1848, Government *versus* Kalee Persaud Roy. Charge. Harbouring a runaway defendant.

No. 21, of 1848, Government *versus* Kalee Persaud Roy. Charge.

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Employing *latials* and through them causing oppression and breach of the peace, and thereby driving several of the ryots, residing within the jurisdictions of thannahs Merzagunge, Augarea and Bowful, to desert their houses.

No. 129, of 1849, Government *versus* Kalee Persaud Roy and others. Charge Instigating the assemblage of a number of armed men with intent to commit breaches of the peace

No 128, of 1851, Government *versus* Kalee Persaud Roy and others. Charge. Being a notorious breaker of the peace.

No 1027, Register Petty cases, 1844, Government and Gooroochurn Chatterjee *versus* Kalee Persaud Roy. Charge. Notorious bad character and oppression of the ryots.

No 901 of 1851, Doorgachurn Doss *versus* Kalee Persaud Roy and others. Charge Attack upon a boat, restraint and assault, &c

No. 900, of 1854 Parbuttychurn Doss *versus* Kalee Persaud Roy and others. Charge. Plunder.

No. 896, of 1854, Muddonmohun Koond *versus* Kalee Persaud Roy and others. Charge Attack upon boat, &c.

No. 14, of 1855, Komul Kishen Doss *versus* Kalee Persaud Roy and others. Charge. Attack and plunder, &c.

No. 924, of 1855, Ramanund Chung *versus* Kalee Persaud Roy and others. Charge Forcibly taking away assaulting and extorting money.

impression that Kalee Persaud Roy was the person who caused the commission of the act which led to the death of Dolall Shuriff, but in doubting the veracity of the witnesses I have acknowledged the absence of legal proof to convict him"

It is not easy to convict a party of instigating a dacoity who carefully remains at home and merely gives the order for its commission, but in this case I think there is ample and good proof of the criminality of the prisoner The evidence for the prosecution of the witnesses noted in the margin,* proves that the attack on, and plunder of the prosecutor's house were headed by the gomashtas of the prisoner, No 11 These gomashtas are well known characters. They were recognized not only by the servants of the prosecutor, by his ryots and by the shopkeepers of the Beghua *Hat Kola*, but by other witnesses,† who saw and recognized them the day before when they stopped for the night in their boats with the gang at the mouth of the Kakrabonia river, these witnesses are not ryots or in any way dependants of the prosecutor, and their evidence is above suspicion The prisoner Kalee Persaud Roy, No 11, in his petition to this court states that the prisoner Poornochunder Doss is not his gomashta, but this he has not in any way proved. Moreover in a case in 1853 when Mr Beaufort was magistrate this very Poorno

* No. 1, Dhoonye Chowkeedar.
,, 2, Neeja.
,, 3, Kalachand Chung
,, 4, Kalla Peadah
,, 5, Busharut Khan.
,, 6, Gourchand Dopee
,, 7, Buloram Chung
,, 8, Joychunder Chung.
,, 9, Buddynath Chung.
,, 10, Surrutoollah.
,, 11, Aurruboodin.
,, 12, Moher Gazee.
,, 13, Denobundoo Sha.
,, 14, Dagor Bakalee.
,, 15, Zeaboollah.
,, 16, Pachcowree.
,, 47, Mahtab Gazee.
,, 48, Lushkur Akhund.

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Chunder Doss gave security to keep the peace as the gomashta of the prisoner No. 14, as did the prisoner, No 14, himself. Further, the confessions of the other prisoners in this case who are *latials* by profession, clearly prove that they were hired by the prisoner, No. 14, to commit the dacoity in the prosecutor's house. It is of course not to be expected that there can be any direct proof of the confinement and cruel treatment of the old woman, Neelja, witness, No. 2. But that she was carried off by a gang of *latials* headed by the gomashtas of the prisoner, No. 14, was several days not to be found, though strictly searched after by the police, and was subsequently found alone and in a deplorable condition near the house of the prisoner, No 14, is clearly established and I have no hesitation in stating that I have perfect faith in the story told by Neelja, as it tallies with the character and usual tactics of the prisoner, who, report says, kept a regular jail in his house. Neelja was produced because the search after her, was getting too hot, and the prisoner, No. 14, feared that a warrant to search his house might issue from the magistrate It remains to account for the conduct of the prisoner, No 14, in this case. I have already observed that it is notorious throughout the district that he lives by plunder, the prosecutor and his grandmother were known to be wealthy and well worth plundering, the father of the prosecutor and the son of Neelja, by name Nujoomuddy Sirdar has quarrelled with his son and his mother. It appears that he has connected himself with a woman of disreputable character and has squandered much of the property of his son, who is entitled to one-half of the whole estate as heir to his mother. Kalee Persaud Roy, prisoner, No. 11, has all along taken the part of Nujoomuddy Sirdar and is said, and I believe with some truth, to have obtained from Nujoomuddy Sirdar the management of his share of the property This led to constant disputes which ended in the outrage now commented upon On the day of the dacoity, Nujoomuddy Sirdar was not at Beeghai; he evidently kept out of the way while the crime was committed. The prisoners, Nos. 2, 3, 4, 5, 6, 9, 10, 11, 12 and 13, are all *latials* by profession, strong powerful men, and reside in the Furreedpore zillah. In their confessions they state that they were hired by the prisoner No. 14; this added to the facts detailed above, and coupled with the known enmity existing between the prisoner, No. 14, on the one hand, and the prosecutor and Neelja, witness, No. 2, on the other, and the tempting wealth of the latter parties lead to an irresistible conclusion that the dacoity was planned and instigated by the prisoner, No. 14. His guilt has been proved as far as in this country it is possible to prove it.

The prisoner, No. 15, Poornochunder is proved, by the evidence of the witnesses named in the margin,* to have headed

* No. 1, Dhoonye Chowkeedar.
,, 2, Neelja.

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No. 3, Kallachand Chung.
,, 4, Kalla Peadah.
,, 5, Busharut Khan.
,, 6, Gourchand Dhopee.
,, 7, Bolaram Chung.
,, 8, Joychunder Chung.
,, 9, Buddinath Chung.
,, 10, Suriutoollah.
,, 11, Auruboodin.
,, 12, Meher Gazee.
,, 13, Denoobundoo Sha.
,, 14, Dagoo Bakalee.
,, 15, Zeahoollah.
,, 16, Pachcouree.

the gang and to have taken an active part in the outrage. He was seen, the day before, with the gang by the witnesses noted in the margin,* whose evidence, as I have already observed, is independent and above suspicion, he has, in this court, failed to prove that he is not the gomashta of the prisoner, No. 14, and I have above shown good reasons for considering him to be so, even on his own admission he is the gomashta of Nujoomuddy Sirdar, the father and enemy of the prosecutor, and the partizan of the prisoner, No. 14; but I fully believe that this prisoner is the gomashta of the prisoner, No. 14; this prisoner was well known to the inhabitants of Beeghai, and where discrepancies in the evidence, as to the names of other parties engaged in the dacoity, have occurred, none have in naming this prisoner. I convict him on the count noted in column 10, and sentence him as shewn in column 12.

* No 47, Mahtab Gazee.
,, 48, Lushkur Akhand.

Sentence passed by the lower court.—Nos. 2, 3, 4, 5, 9, 10, 11, 12 and 13, each to be imprisoned for (7) seven years, with labor in irons, and Nos. 6 and 15, each to be imprisoned for (10) ten years, with labor and irons, and No 14, to be imprisoned for (14) fourteen years, with labor but without irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. J. H. Patton)

Mr. A. Dick.—The actual occurrence of the outrage has been established beyond doubt. The eye-witnesses to the outrage have likewise testified to the carrying off of Neelja, and she was found in the village, where the prisoner Kalee Persaud lives, far from her home. She has in detail deposed how she was carried away, and that she was taken to the house of Kalee Persaud, together with her servant Kallachand, saw Kalee Persaud, and was confined and guarded by his orders. Although there are contradictions in her testimony respecting the hidden treasure in her house, there is nothing contradictory in her statements regarding her abduction and her confinement in the house of Kalee Persaud by his orders. The eye-witnesses declare that the leaders of the party who attacked and plundered the house of prosecutor, and carried off Neelja and her servant Kallachand Sirdar, were servants of Kalee Persaud; and the confessions of many of the prisoners (against the genuineness of which nothing has been adduced,) corroborate the evidence of the eye-witnesses, and the conclusion to which they arrived from seeing

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the two leaders, that the whole party belonged to Kalee Persaud. His notorious character, as a breaker of the peace, is evinced by the numerous times he was forced to enter into cognizance to keep it, and his partizanship with Nujoomuddeen the son of Neelja, and father of prosecutor, point him out as the most probable instigator of this most daring outrage. On the other hand, there is not a particle of proof that Burdakant (as the prisoner Kalee Persaud would have it believed) was the instigator of the outrage. If Kalee Persaud were not the instigator, the occurrence had no cause, no instigator! The evidence of Neelja as to her being carried to the house of Kalee Persaud, and being there confined, is so fully corroborated by the fact of her being found in the village where he resides, far from her own home, by the testimony of eye-witnesses who saw her taken away and who knew Poorun and Mudun to be servants of Kalee Persaud, strengthened by Mudun's flight, by the confessions of the prisoners who declare they were employed by him, and by the notorious character of Kalee Persaud for violence, that I cannot but believe it, notwithstanding her contradiction on other points. I would not therefore interfere with the convictions of the sessions judge, or the sentences passed by him.

Mr. J. H Patton.- I must premise by remarking, that the circumstances of this occurrence appear to me to be greatly exaggerated and invested with a magnitude and seriousness inconsistent with the real facts of the case. A riotous attack with plunder of some domestic utensils, &c., seems to have been converted into a daring gang-robbery committed in open day and attended with theft of cash and property, exceeding in value the enormous sum of 25,000 Rs.

As the sessions judge in his report of the trial has given an elaborate account of the affair, and the grounds on which he has convicted the prisoners severally, it is unnecessary for me to recapitulate and comment on the evidence, except in the instances in which I dissent from that officer.

The prisoners, Nos. 2, 3, 4, 5, 9, 10 and 11, confess before the police and the deputy magistrate, and their confessions appear spontaneous and truthful. No exception can be taken to them and they clearly criminate the prisoners as professional *latials.* I would convict the prisoners on those confessions.

I would convict the prisoner, No. 6, on the ground of his mofussil confession, corroborated by the important fact of the finding in his house of some title deeds and documents drawn up in and bearing the name of the prosecutor and members of his family.

The prisoner, No. 15, I would convict on the direct evidence adduced of his guilt on the trial. This evidence goes to prove that he took an active part in the affair, was the leader of the party who perpetrated it, and in communication with them the

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day previous to the occurrence. As the attack was made in open day without attempt at disguise, the recognition of the prisoner by the witnesses may safely be relied upon. Moreover, I am unable to resist the presumption raised by the facts disclosed in the record that the prisoner is of a turbulent character, and in the habit of participating in the tumultuous breaches of the peace so prevalent in the district of Backergunge. All these prisoners, viz., Nos. 2, 3, 4, 5, 6, 9, 10, 11 and 15, I would sentence to seven years' imprisonment, with labor in irons.

I would acquit the prisoners, Nos. 12 and 13, for want of evidence, the only proof against them being their confessions before the police and the finding with them of property alleged to have been plundered. The former is at all times of doubtful reliability, the latter in the present instance is disentitled to consideration, owing to the ordinary nature of the articles discovered, and the impossibility of their distinct identification, and the fact of there having been three lists of the stolen property filed at different times, and the discordance between some of those lists and the articles found by the police.

As regards the prisoner, No. 14, I can find no legal evidence whatever of his guilt on the record. The only testimony that directly implicates him is that of the female witness, Neelja, but her several statements made before the police, the magistrate and the sessions court are so outrageously contradictory, that it is quite impossible to place the slightest dependance on them. Her depositions are a tissue of discordant and irreconcilable assertions, and she gives no two versions of the affair which tally with each other. Evidence which is defective on one point, must be taken to be defective on all, and no conviction can be had on defective or doubtful evidence. Again, in order to connect the prisoner with the offence, it is contended that the prisoner, No. 15, above convicted by me, is his gomashta. Now, it is in direct evidence that such is not the case, and this evidence is strengthened by the circumstance proved by the witnesses for the prosecution, that he has been an occasional servant of Barodakant Roy, the mortal foe of the prisoner and the party charged by him as instigating these proceedings against him. It is not probable under such circumstances that he should have been in the employ of the prisoner. Lastly, accessoryship *before* the fact involves the proof of procuring, counselling, commanding or abetting another to commit a felony. Accessoryship *after* the fact, the proof of the knowledge of the commission of a felony by another, and of receiving, relieving, comforting and assisting the felon. Both these suppose the performance of some act to assist the felon personally, and are the charges on which the prisoner stands indicted. The record shows no evidence of the nature required against the prisoner, nor indeed, in my opinion, of any nature which makes him a criminal in the eyes of

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the law. Entertaining these views, I would acquit the prisoner.

Sir R. Barlow.—This case has only been referred to me, in regard to prisoners, Nos. 6, 12, 13, 14 and 15.

I concur in the conviction and sentence of the prisoner, No. 6, Wusseemuddeen.

He confessed before the police to the receipt of the plundered property, which was found to a large amount in his house. In the list were included some bonds and other documents, which, before the magistrate, the prisoner stated were in a box given to him by Myjunuddeen in lieu of wages. He pleaded the documents must have been left in it by mistake. Before the sessions judge, he denied all knowledge of them, adding they were clandestinely introduced into the house by the police.

The prisoners, Nos. 12 and 13, confessed also in the mofussil. Two or three brass utensils and utensils for household purposes, with a piece of white cloth, were found on them, but such articles are in the possession of every ryot. The recognition of the eye-witnesses to whom they were not previously known, is not satisfactory. It is true the attack on the prosecutor's house was committed during the day, but it is scarcely probable that the prisoners should have been clearly recognised in the midst of hundred persons, for such is stated to have been the number of the assailants.

Against the prisoner, No. 14, there is no legal evidence on the record; he is charged as an accessary before and after the fact, and it is endeavoured to establish his guilt, through the prisoner, No. 15, said to be his agent, and one of the leaders of the attacking party. The connection between these two prisoners is sworn to by the eye-witnesses, who have deposed to the prisoner, No. 15, being the gomashta of prisoner, No. 14. The latter however has shewn that, very shortly before the occurrence of the offence which forms the ground of this charge. No. 14, was declared in court to be the servant of Myjunooddeen and another witness, Gooroopershad Roy, a relative of the prisoner, No. 14, who was brought forward on the prosecution, has sworn that No. 15, was sometimes acting for one, sometimes for another. The witness lives close to the prisoner, No. 14, but could not speak to the fact of himself; he heard it from others.

The prisoner, No 14, is reported by the sessions judge to be a notorious disturber of the peace, and a list of several cases, in which he has been called on to defend himself on charges of culpable homicide and breach of peace, is attached to the judge's remarks. Had there been sufficient legal evidence to connect the prisoner with his alleged gomashta, and with the attack on the prosecutor's house, the cases cited would no doubt have been deserving of every consideration; but the evidence is not such

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as would justify his conviction in this case. I can find but one witness (the prosecutor's grandmother) who implicates the prisoner, she says she was taken to his house, there detained and then let loose in the village. The burkundaz, who first took charge of her, can give no account of her release, and she herself has made such very contradictory statements in the case, and shown such a want of recollection on material points, to the extent even of omitting mention of the loss of 500 goldmohur pieces and 10,000 Rs. in cash in one deposition, which she introduced them in another, that no reliance can be placed on what she says; when called upon to reconcile this omission, she could give no satisfactory explanation whatever.

Mr. Norris for the prosecution urged that the prisoner had engaged to produce one Kalachand Mussulman, who, it is said, was wounded and has never appeared since the day of the occurrence. Proof of this very important fact being called for, the pleader caused a report, made to the mohurrir by a burkundaz, to be read. It was to the effect that the prisoner having sworn him (the burkundaz) to secrecy in a private apartment in the interior of his house, promised to bring up the said Kalachand. This burkundaz has not been examined at any stage of the proceedings, nor has an attempt to prove the alleged fact to which reference was made, been placed on the record.

A mere assertion of this nature of course cannot be accepted; I therefore concur in the release of the prisoner, No. 14.

The prisoner, No. 15, defends himself by denying any connection with No. 14, and pleads that he was three months before the alleged offence in confinement in the hands of the prosecutor, and from that date to the 12th of Phalgoon. It is impossible to believe that, notwithstanding the presence of the police, when the enquiry was going on, no information of the prisoner's detention in confinement by the prosecutor should have been given to the darogah. A petition had been presented to the magistrate on the subject by the prisoner's brother, but on investigation, the charge was not proved. I see no reason to interfere with the sessions judge's order, as regards this prisoner, on his appeal to the Court.

PRESENT:
SIR R. BARLOW, BART., H. T. RAIKES, AND
B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT
versus
MUSST. BOODHIA.

Patna.

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Case of MUSST. BOODHIA.

The prisoner was convicted of perjury, in having made a false charge on oath before the magistrate and sentenced to five years' imprisonment.

Appeal rejected by two judges, the third judge being dissentient.

CRIME CHARGED.—Perjury, in having, on the 18th June, 1855, deposed under a solemn declaration taken instead of an oath, before the magistrate of the city of Patna that Lungut and Heera and Boolakee took my son Sookhun, into the middle of the river and threw him in; he cried out, bring the boat I am drowning; they went off in their boat and he was drowned. Such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 18th July, 1855.

Remarks by the officiating sessions judge.—The prisoner on the 15th June, 1855, presented a petition to the magistrate, which was backed up by a deposition on oath, on the 18th idem, to the effect that Heera, Lungut, and Boolakee had, of malice aforethought, taken her son, Sookhun, a youth nearly grown up, into the middle of the river in a boat and there drowned him. That the prisoner was guilty of wilful perjury in making this statement is proved by the evidence of witnesses Nos. 3 and 4, (Kashee and Kunhai,) who swear to her voluntary deposition at the thannah on the 2nd May preceding, to a totally different effect, viz., that her son was drowned in company with the persons above named accidentally; by the witnesses Nos. 6, 7 and 8, Heera, Lungut, and Boolakee, who speak to the mode in which the young man was drowned, although on some minor points contradictorily; by the witnesses Sumodhee, Rajeebun and Ramchurn, Nos. 9, 10 and 11, who speak distinctly both to the accident and to prisoner's knowing and speaking of her son's death by accident, and *who had been named by prisoner in her petition to the magistrate as witnesses to the murder*, and especially by the two witnesses *to the defence, Kewul Singh and Bhichook Singh.* The prisoner is a servant in Kewul Singh's house, and Kewul Singh says the charge was a false one; while Bhichook Singh, who is a part-proprietor of the village, not only says there was no murder, but that after her son's death the prisoner attempted to make money by it, by threatening to accuse the three men he was with at the time he was drowned, of having killed him, if not paid for her silence, and that, not

being paid, she brought the charge on the 15th June. The prisoner had accounted for her not complaining to the magistrate for six weeks after she found the police on the spot had taken down her deposition wrong on 2nd May, by asserting that Boolakee and the rest prevented her leaving home; but her own witness Bhichook Singh, swears there was no detention of the kind nor was it possible.

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Case of MUSST. BOODHIA.

The law officer's *futwa* is "*acoobut*," and, considering the prisoner guilty of the crime charged, I sentence her to five years' imprisonment with labor suited to her sex.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., Mr. H. T. Raikes and B. J. Colvin)

Mr. H. T. Raikes.—I consider the perjury as charged is proved against the prisoner, and I would therefore uphold the conviction and the sentence passed upon her.

Mr. B. J. Colvin.—As the parties accused, of the murder of the son of the prisoner, were not put on their trial for the crime, I would acquit her of perjury according to the precedent at page 365 of the Nizamut Decisions for 1854, Vol. IV. Part 2, and the other precedents referred to therein.

Sir R. Barlow.—The prisoner is charged with having sworn falsely on the 18th June, before the magistrate, that the three men, against whom she appeared, had thrown her son into the river and that he was drowned in consequence. The statement made by the prisoner that the deceased and those she charged were at enmity, which was the cause of their drowning him, is first mentioned in her deposition of the above date, while it is proved from her deposition, attested by Kunhai Gope, who signed it himself and for two others, also witnesses to it, that she on the 2nd May, gave information on oath at the thannah of the *accidental* death of her son by drowning; other witnesses have sworn also that immediately upon the occurrence of the accident, the prisoner came to them crying, and upon asking the cause, she replied that her son had been drowned by the upsetting of a boat.

The prisoner has not been put on her trial for making conflicting statements on oath, but for falsely swearing on the 18th June, to a point material to the issue of the case, in which she charged three persons with having drowned her son.

The proof of the falsity of this charge is derived from her mofussil deposition, verified by the jemadar of police and the witnesses attached to it; also from the evidence of those who saw her, prisoner, and heard her story at the time her son was lost in the river. The persons against whom she now brings the charge of drowning her son were not apprehended, as in her first deposition before the police, no suspicions of a violent death having occurred arose, nor were they put on their trial upon her deposition of the 18th of June; a case, that is a charge of

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murder, was however before the court; the investigation instituted established that the charge was clearly false, and perjury was then committed by the prisoner, (as shewn by the proceedings on the record,) in consequence of which no further trial on the charge which had been preferred was considered necessary. I concur in the prisoner's conviction and sentence.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*

GOVERNMENT AND KESUBCHUNDER PRAMANICK

versus

KISTOKISSORE PRAMANICK.

Rajshahye.

1855.

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Case of Kistokissore Pramanick.

The prisoner's complicity in the murder was held to be proved. Sentence proposed by sessions judge, considered inadequate.

CRIME CHARGED.—1st count, wilful murder of Roopmunnee Bewah; 2nd count, being an accomplice in the said murder; 3rd count, making away with Roopmunnee Bewah.

Committing Officer.—Mr. J. C. Dodgson, magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 5th of August, 1855.

Remarks by the sessions judge.—The case entirely turns on the confessions made by the prisoner after his apprehension, and the evidence of his own mother-in-law, who was living with the deceased at the time, and who distinctly deposed, she had never seen her since the day she left her house with two others to go and bathe in the Ganges at Moorshedabad.

The deceased's son deposed that he lived at Degga with his maternal uncle, and his mother at Chupa Pokereah at her own house, that she had a *liaison* with two men and was pregnant by them. In the month of Assar, he came to visit his mother, but not finding her at home, and after a fruitless search for her, he complained to the magistrate; that Ruttee Bewah, (witness No. 1,) lived with the deceased, and the prisoner was married to her daughter, and lived two *russees* off; he suspects the prisoner of being concerned in his mother's murder, as by her illicit intercourse with other men injury was done to his caste. Some beads of a broken *malla*, a shell, some tamarind, and rags of cloth, were then shown the prosecutor, but he could not identify them.

The prisoner pleaded *not guilty* to all three counts of the charge.

Witness No. 12.—The first witness examined, and who deposed to finding the *malla*, and articles above enumerated, in a *mydan* or plain.

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Witness No. 8.—Deposed to seeing the body of a female towards the end of Jeyt in the *mat*; and near it was a *malla*; and in the month of Assar following, he went with the thannah mohurrir to the place, where the *malla* was discovered.

(On a reference to the report of this mohurrir it was found that he went to the *mat* or plain, on the 26th Assar, corresponding with the 9th of July, and was taken there by a Dosher Pramanick, and Chand, who had seen the *malla*, but neither of them appear to have been examined by the magistrate.)

Witness No. 9.—This witness admits having had a *liaison* with the deceased, who never told him she was going to the *gungashnan*; Ruttee Bewah told him *first* that she had gone to Degga, and *then* that she had gone to the *gungashnan* (this is the usual term used when any person goes to bathe in the sacred Bhaguruttee at Moorshedabad) that when questioned further, she said Kisto (meaning the prisoner) knew all about it. The prisoner then admitted to him he had killed the deceased; but did not say why he had done so.

Witness No. 1.—This witness is the prisoner's mother-in-law, and a very unwilling one. All that could be got out of her was that the deceased went one night with Mohanund and Dhunnun Joy, to the city, (meaning Moorshedabad.) and that her son-in-law did not go with them. She had never seen the deceased since. Her son-in-law lives some little distance off, and his wife with him.

She then was shown the *malla*, but did not recognize it. (These bead *mallas* are, I understand, worn both by males and females, and this makes it very doubtful if any person could identify the *malla*.)

I now come to the confessions.

The mofussil one, taken down by the mohurrir of the Potea Ghatee, on the 8th of July, was to the following effect.

That two persons (named) invited him to go with them to Moorshedabad to bathe, and said they would furnish him with money for his expenses, and which he could refund to them. They accordingly set out, Roopmunnee, who was nine months gone with child, joining them from her house, when called by one of the party. They first went along the road, and then struck across a paddy field by the *ail*, or ridge, and, on reaching Kaffra *Cheel*, near a field of linseed, one of the party laid hold of Roopmunnee's hair, and threw her down on her back, and another got on her breast and began to squeeze her throat, and when she was dead, they took off her clothes, and threw the body out in the *mydan*, near the linseed field. That he told them to desist, but they would not, and threatened him if he interfered. That he was with them when they threw away the body, and with it a *potta*, or small bundle. After this they returned home, and on asking them if they did not mean to

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bathe, they replied, no, for if they did they would be suspected. All then returned to their houses, and he slept in an out-house, and next day he said nothing, but, on the body being discovered, he told what had occurred to Ruttee Bewah and Ramneedhi Mundul (witnesses Nos. 1 and 9.)

On the 9th of July, the prisoner repeated the confession before the magistrate, but in less detail; but added he was about to peach, or inform against the others, when he was apprehended on a charge of theft, but released by the *ghatty* mohurrir, and then, through fear, he said nothing about it.

Both these confessions were fully proved to have been voluntarily made by the prisoner, who accused the witnesses, to the mofussil confession, of taking money from the mohurrir, but which they indignantly denied.

The prisoner's defence was a simple denial of all knowledge of the murder, and that he was on the night of the alleged occurrence at Kistodhun Mundul's house. This, however, Kistodhun could not speak to, nor his other two witnesses, examined on the 5th of August

The assessors (one the town Cazee, and the other, the son of a person who was formerly law officer at Mymensingh, and who happened to be in attendance and was therefore called in) were then told to consider their verdict and gave in a written one, convicting the prisoner of concealing the murder.

I go beyond this finding, (and may here remark as he confessed twice, the concealment was only for a time) and would convict him of being present, aiding and abetting in the murder; and afterwards assisting in the removal of the body.

In the first place, he did not give the poor woman a helping hand, or call out when he saw what the other two persons (who he names, but of whose complicity there is no proof) were doing to her, and this, though she was connected with him by marriage. That the unfortunate deceased led rather a vicious life, and had two paramours, did not extenuate his conduct. And, as she was pregnant (and near her confinement,) the destruction of the embryo constituted a double murder.

What convinces me that the prisoner lent a helping hand to remove the body, was the question he put to his associates about bathing. It is notorious that when natives touch a corpse, they consider themselves defiled, and impure, *(asood)* and invariably bathe whatever hour it may be. Now if the prisoner had been a mere looker on, the idea of bathing *at night* would never have suggested itself to him or would he have adverted to the fact in his confession. The presumption is therefore strong that he must have assisted *others* to remove the deceased's corpse, and, till a body was discovered, no doubt he concealed her death. And this he himself confessed to the magistrate. After such a lapse of time it would have been quite impossible to have iden-

tified the body, or bones. But the prisoner's confession leaves no doubt in my mind that the body seen by witness No. 8, was the deceased's, though it would have been better if the magistrate had taken more evidence to the discovery of a *body*.

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The sentence I would propose, if the Court concur with me as to the prisoner's guilt, or his complicity in the murder, is that he be sentenced to fourteen years' imprisonment with labor and irons.

With this opinion, I leave his case in the hands of the Court.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The admissions of the prisoner go to show that he accompanied the murderers, a passive spectator of the murder by them, and afterwards assisted them in the disposal of the body, and concealed all knowledge of the affair till after his apprehension.

His confessions, coupled with the fact of his family connection with the deceased, and consequent motive for getting rid of her, justify, in our opinion, his conviction of complicity in the crime charged. Under these circumstances, we consider the punishment proposed by the sessions judge inadequate, and sentence him to imprisonment for life in transportation beyond seas.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND BYSTOMCHURN DEY

versus

GIRIDHUR KURMOKAR (No. 1,) SHADHOO CHURN KAMAR (No. 2,) AND KASHEENATH BISWAS (No. 3.)*

West Burdwan.

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The guilty knowledge of the prisoners held to be clear.

CRIME CHARGED.—1st count, Nos. 1 and 2, receiving knowingly a Bank of Bengal note No. 55320, valued at 100 Rs. obtained in a burglary and theft committed on the night of 20th June, 1854, or 7th Assar 1261, in the shop of the prosecutor Bystomchurn Dey, in which property to the value of Rs. 2276-13 was stolen; 2nd count, changing knowingly, the aforesaid Bank of Bengal note obtained by above stated burglary and theft.

CRIME ESTABLISHED.—Nos. 1 and 2, receiving knowingly a Bank of Bengal note No. 55320, valued at Rs. 100, obtained in a burglary and theft committed in the shop of the prosecutor

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Bystomchurn Dey, in which property to the value of Rs. 2276-13 was stolen; and on the 2nd count, changing knowingly, the aforesaid Bank of Bengal note obtained by above stated burglary and theft.

Committing Officer.—Moulvy Gholam Ushruff, deputy magistrate of Boodbood.

Tried before Mr. Pierce Taylor, sessions judge of West Burdwan, on the 20th June, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case, drawn up under Act XXXIII. of 1854, were as follows.

The *rokhurs* and *chittas* of the prosecutor and his correspondent Nuffer Banerjee, the evidence of the witnesses for the prosecution, certain petitions, and certain correspondence between the deputy magistrate of Boodbood, the joint-magistrate of Bancoorah, the magistrate of East Burdwan, and the chief magistrate of Calcatta, distinctly prove that a burglary took place in prosecutor's house, on the night of the 20th June, 1854, or 7th Assar 1261, B. S; that property valued at Rs. 2276-13, per a list immediately afterwards given by the prosecutor, which contained mention of the note for 100 Rs. No. 55320, which had been received from the above named Nuffer Banerjee, was carried off by the burglars; that on the 10th Srabun, or 24th July, 1854, the said note was exchanged for 100 Rs. with Kasheenath Biswas, prisoner No. 3, by Giridhur and Shadoochurn Kamars, prisoners Nos. 1 and 2, at Moynapore, a village about four *coss* from that of the prosecutor; that the transaction took place in the cutcherry of the zemindar, Burdanund Mookerjea, whose gomashta the prisioner No. 3 was; that he at first, refused to negotiate the note, but afterwards did so, on knowledge of the prisoners Giridhur and Shadoo being declared by Modhoosuddun and Hurree Kamars, witnesses Nos. 14 and 15 who are their connexions; that the prisoner Shadoochurn's sole name was endorsed upon the note, by witness No. 15, because he declared that he could not read nor write, and that he had a *hatchitta* for the note, in Calcutta; that the prisoner No. 3, as further security took a written and witnessed *iqrar*, or acknowledgment of the transaction, from the prisoners Nos. 1 and 2, part of which was engrossed by himself, and part by the witness Hurree Kamar, No. 15; that 100 Rs. were actually paid over to the said prisoner, in various coins; that the exchange was openly and publicly made; that the prisoner No. 3, Kasheenath Biswas, afterwards sent the note to Burdwan in payment of the purchase money of a *putnee mehal*, named lot Desra; that it was presented at the Maharajah's cutcherry by Soodhakisto Chowdree, witness No. 8, (absent); that it was subsequently paid away by the Maharajah to Mr. Carbery of Calcutta, for goods, and cashed by that individual at the Bank of Bengal where it was cancelled;

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that the said note was afterwards obtained and placed with the record; that Kasheenath Biswas, prisoner No. 3, and the said Soodhakisto both petitioned the magistrate of East Burdwan, in explanation of the circumstances above detailed, and were referred to the authorities of this district; that the prisoners Giridhur and Shadoo, Nos. 1 and 2, were subsequently taken to the cutcherry of No. 3, by Hurree Kamar, witness No 15, and there agreed to repay the 100 Rs they had received from him, by instalments; that they were then made over to Gyaram and Sreekant Kamars (not sent in nor examined) who agreed to be answerable for them, and that they subsequently fled, No. 1, to Sabrakone, to the house of one Gholam Kamar, a relation, in which he hid himself, and the other to his own home, from which places they were afterwards brought to the thannah, and *chalaned* to the deputy magistrate.

The defence of the prisoner, No. 1, Giridhur Kamar, is, that the case has been got up against him by the prisoner No. 3, Kasheenath Biswas, in consequence of a quarrel he had with him about entering the woman's *baree* of the zemindar, to sell brass articles without his permission; that he had him beaten and tortured, by the application of beetles to his navel because he would not sign a "*khata*" and endorse a note; that he neither signed nor endorsed; that Hurree Kamar, witness No. 15, rescued him; that he was some time afterwards taken to Kasheenath's cutcherry by Mudhoo Kamar, witness No. 14 and others, and offered money to say that he had found the note on the ground, or that it had been brought from Calcutta, by his elder brother; that he refused to do so, and afterwards went to Sabrakone, where he was apprehended and *chalaned* This prisoner adduced no witnesses to prove his allegations, but only a few to character, who do not give him a satisfactory one.

The defence of prisoner No. 2, Sadoo Churn Kamar, denies all knowledge of the note, and negotiation thereof, and beginning at the date on which Giridhur said that Modhoo Kamar and others came to take him to Kasheenath, endeavours to make out, that he went after him, but did not see him at Moynapore, nor again, until he was himself apprehended. He adds that Haree Kamar, witness No 15, visited him at Bagdoba, whither he had gone on business, and offered to pay his expenses, if he would persuade Giridhur to confess and agreed to pay 50 Rs. This prisoner's witnesses do not support his allegations, and some of them depose in a discrepant manner.

The defence of the prisoner No. 3, denies all guilty knowledge, though he confesses the negotiation of the note, because he required one at the time, and he believed witnesses, Nos. 14 and 15, to be respectable people and his witnesses fully support his account of all the circumstances of the transactions, as

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already detailed in describing the facts proven by the prosecution.

The *futwa* of the law officer convicts the prisoners, Giridhur and Shadoo, Nos. 1 and 2, on both counts of the indictment *bu zum-i-ghalib*, or on violent presumption, and declares them liable to *tazeer*, and acquits Kasheenath Biswas, prisoner No. 3. As I consider this *futwa* entirely borne out by the evidence adduced, I hereby accept the same, and convicting the prisoners Giridhur Kamar, No. 1, and Shadoo Kamar, No. 2, of both counts of the indictment, on violent presumption, sentence each of them to four years' imprisonment, with labor in irons, and two years more, also with labor in irons, in lieu of corporal punishment, total six years, with labor in irons, to be undergone in the zillah jail. As it appears that they may have some available property, I further sentence them, under Act XVI. of 1850, to pay a fine of 100 Rs. being the value of the note stolen from, and lost to, the prosecutor, jointly and severally. As no guilty knowledge has been proven, or is presumable, against Kasheenath Biswas, No. 3, and he therefore seems to be entirely innocent, I honorably acquit him of the charges noted in the calendar.

The joint-magistrate will immediately be furnished with the usual warrants of imprisonment and release, and direct in a separate proceeding, to carry out the sentence of fine against the prisoners, Nos. 1 and 2, without delay, to keep the cancelled note with the record, and to return the prosecutor's *khata* to him, taking a receipt for the same.

The record will be sent back to the joint-magistrate's office, as soon as the period of appeal shall have expired.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) Seeing no reason to doubt the evidence of the witnesses, Nos. 14 and 15, whose statements exonerate the gomashta, Kasheenath, and fix the two prisoners, convicted, with the responsibility of accounting for the possession of the stolen note, we deem the conviction of these men proper, and reject this appeal.

PRESENT:

H. T. RAIKES, AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND GUNGAGOBIND SHAH

versus

KEDARNATH HADEE (No. 13,) AND BIRESSUR GANGOOLEE ALIAS SHAMACHURN MOOKERJEE (No. 14.)

Nuddea.

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The conviction of the prisoner was affirmed.

CRIME CHARGED.—No. 13, embezzlement and committing a breach of the trust reposed in him, by having on, or before, the 17th May, 1855, stolen three Bank of Bengal notes, No. 2539 for Rs. 250, and No. 2925, for Rs. 25, and another No. unknown, for Rs. 15, the property of his employer the prosecutor, Gungagobind Shah. No. 14, being an accomplice of, and aiding and abetting the prisoner No. 13, before and after the above fact, and receiving and keeping in his possession and afterwards cashing one of the above-mentioned Bank notes knowing it to be stolen property.

CRIME ESTABLISHED.—No. 13, embezzlement and No. 14, receiving and keeping in his possession a Bank note knowing it to be stolen property.

Committing Officer.—Baboo Isshur Chunder Ghosal, deputy magistrate of Santipore.

Tried before Mr. R. M. Skinner, officiating sessions judge of Nuddea, on the 27th July, 1855.

Remarks by the officiating sessions judge.—From the evidence of Mohesh Ghose and Nobin Chunder Shah (witnesses Nos. 5 and 7) it is clear that the note, (No. 2539 for Rs. 250) now in court, is one of three, belonging to Gungagobind Shah, aggregating Rs. 290, that were in a box, of which prisoner No. 13, had the key on the night of 3rd Jeit, and that they missed the three Bank notes the following afternoon when the box was opened in their presence and in that of the said prisoner, they reported the matter to their employer, Gungagobind Shah: and Nuffer Paul, a servant of his was despatched on 5th Jeit, by railway, to Calcutta, with a note addressed to Mohesh Chunder Shah (witness No. 6) nephew of prosecutor, to cause payment to be stopped at the Bank; and information was also given to the darogah of Santipore on 6th Jeit. It is further proved from the evidence of the said Mohesh Chunder Shah, (witness No. 6,) and Hurrish Chunder Seal, (witness No. 4) that the said Mohesh Chunder, went to the Bank at 10½ A. M. of the 6th Jeit to cause stoppage of payment of this note, No. 2539, for Rs. 250. Subsequently, at noon, prisoner, No. 14, (whose real name is Biressur Gangoolee) calling him-

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self Shama Churn Mookerjee, went to Hurrish Chunder Seal witness No. 4, aforesaid, to get the said note cashed: information was given to Mr. Cook, of the cheque department at the Bank, and the prisoner, No. 14, was handed over to the police. He asserted before witnesses, Nos. 4 and 6, that prisoner, No. 13, had given him the note, at Santipore, saying he had *found* it, and requesting him to take it to Calcutta to be cashed. The prisoner No. 14, was accordingly forwarded to Santipore. This prisoner admits that he received the note from prisoner, No. 13, with whom he is not connected; prisoner, No. 13, admits that he gave the note to prisoner, No. 14, to take to Calcutta to get it cashed, but pretends that witness, No. 5, had given it to him to get cash; yet, although Santipore is a large mart, he could not get change there: and consequently made it over to prisoner, No. 14, to take it to Calcutta to get change. He brings no witnesses to prove that he was authorized to get it changed. One witness No. 12, alone says that Kedarnath, prisoner, No. 13, took the note to him and asked him to give cash for it. This however, does not show that none of the people at Santipore could give change, or that prisoner was authorized to get it changed at Santipore, or to send it to Calcutta, if change was not procurable at Santipore. Plaintiff and witnesses, Nos. 5 and 7, distinctly aver that prisoner had charge of this and other two notes, which are not forthcoming. Prisoner, No. 14, must have been perfectly aware that prisoner, No. 13, had not come honestly by the note which he professed to have picked up, and which he gave to him (no connection or fellow-servant) at Santipore. Of three jurors employed on the trial one considers both prisoners guilty, another juror deems prisoner No. 13, guilty, but gives no satisfactory reasons for discrediting the charge against prisoner No. 14. The 3rd juror pronounces both prisoners *not guilty*, and discredits the evidence of witnesses Nos. 5 and 7, but for no good reason. I convict prisoner No. 13, of the first count, and sentence him under Act XIII. 1850 to five years' imprisonment with labor in irons and to pay 290 Rs. minus 250 Co.'s Rs., Co.'s Rs. 40, (i. e. the deficit not recovered) to plaintiff, under Act XVI. 1850. I convict prisoner, No. 14, of the 2nd count, and sentence him, as receiving and keeping in his possession a Bank note, knowing it to be stolen property, to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The only defence set up by the prisoner, No. 13 is, that he gave the note to prisoner, No. 14, to get it changed at the Bank, as there was not cash to be got for the note at Santipore, and prisoner, No. 14, says he was only employed to procure change for the note at the Bank. The fact, however, of the prisoner, No. 14, having attempted to cash the note, under an assumed name, is against any belief in his

statement, and had the master of prisoner, No. 13, really employed or directed him to procure change for the note, there is no apparent reason for his turning the circumstance against the prisoner and accusing him of the present *fraud*. We see no reason to interfere, and reject this appeal.

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PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

AHMUDDIN

versus

BUNGSEE BUDDUN RAE (No. 12, APPELLANT,) ESHAN CHUNDER BAROREE (No. 13, APPELLANT,) RAZA GAZEE (No. 14,) AND MEHER ALI (No. 15.)

Tipperah. 1855. September 18. Case of BUNGSEE BUDDUN RAE and others.

The appeal of the prisoners was rejected, the plea of *alibi* advanced by two of them, was totally disproved.

CRIME CHARGED.—1st count, committing a dacoity at night at the house of the prosecutor, and plundering therefrom property belonging to him, valued at Rs. 119-4-6; 2nd count, attacking the prosecutor's house at night and plundering therefrom property belonging to him, valued at Rs. 119-4-6.

CRIME ESTABLISHED.—Attacking and plundering the prosecutor's house at night.

Committing Officer.—Mr. A. J. Jackson, officiating magistrate of Tipperah.

Tried before Mr. H. C. Metcalfe, sessions judge of Tipperah, on the 1st May, 1855.

Remarks by the sessions judge.—This case is supplemental to one reported by my predecessor on the 3rd June, 1854, in the following terms.

"It appears from the statement of the prosecutor and the evidence of the witnesses, that about 5 o'clock of the 26th January, corresponding with the 4th of Magh, the plaintiff's house was attacked by a body of men in number about thirty or thirty-five, all armed, variously, with spears, clubs, &c., where they entered the eastern house of the court-yard and proceeded to break open chests and boxes, taking from thence property with cash to the amount of Rs. 119-4-6. Having effected this part of their object, they seized hold of the prosecutor and carried him off in a boat to the Mohunpore cutcherry of Kishen Nath Mokerjea, who holds a proprietary right in 3 annas and 15 gundahs, in Pergunnah Mohobutpore, and who had for a considerable period past, cherished a deep enmity against the prosecutor. Of the whole body of men, the greater part went with the prosecutor in the boat, the rest proceeded in a southerly direction towards Mohunpore. At the time of the band

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leaving, a man of the name of Luraee Khullassee followed up the boat, running along the bank, giving the alarm and crying for assistance as he went on. The prisoners landed at the village of Mohunpore, where putting the prosecutor ashore, they took him into the zemindar's cutcherry, where they kept him for about an hour and a quarter, when they again put him on board the boat and proceeded towards mouzah Tarpassah. The man Luraee Khullassee, who had, in following them up, reached Chur Behandurpore, there gave the alarm, when several inhabitants of the village, to the number of 150 or 200 men, including the village chowkeedars, Shitab and Sittoo, some of these men hastily entering boats, and others running along by land, succeeded in effectually cutting off the prisoners' retreat by the time they had reached Chur Behandurpore, where they completely surrounded them. In despair of getting further on, the prisoners in the boat, to the number of twenty-three jumped on shore and hid themselves in the *nul* jungle, which grows on the Chur. The chowkeedar and the village people, who had turned out so readily, searched the jungle in all directions and succeeded in capturing the men, one after another, in their places of concealment. The villagers and chowkeedars then took the whole body of prisoners as well as the prosecutor and part of his plundered property, and proceeded to mouzah Nowabazaar. The darogah of Daoodkandee, when he received intelligence of the occurrence, repaired immediately to Nowabazaar, where he received over from the captors two boats and the whole body of the prisoners taken on the Chur, as also the arms (spears, clubs &c.,) which were also found on board the boat in which the plunderers had embarked. The darogah then proceeded on the same day to take a deposition from the prosecutor, and a statement of the property plundered from his house. Three of the band, viz., Kaloo *alias* Kalachand, Abbas *alias* Ushruff, and Solimuddin *alias* Solun, confessed fully their participation in the deed of violence. Kalachand also produced a small bundle from his person in which was found the gold and silver ornaments plundered from the prosecutor. These three men also confessed their guilt before the magistrate. The owner of the boat, which the prisoners had used, Konnye Manjhee, and Shibram Chung, and Muthooramohun Chung, boatmen, deposed distinctly and clearly to the fact that Bungsee Rae, Naib of the zemindar, Kishen Nath Mookerjea, and Eshan Chunder Baroree, had hired the boat for the declared purpose of proceeding first to Mohunpore and thence to Dacca. From the place where the boat was hired, fourteen or fifteen men proceeded in it to Mohunpore. When they started, they are stated to have had no arms with them, but on reaching Mohunpore, where the zemindar's cutcherry is, five or six of the men got out and brought from the cutcherry house a number of *lattees* and spears, &c., which

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they deposited on board the boat. On the Manjhee enquiring for what purpose they had brought these arms, they told him not to trouble himself about them, but to mind his own business. Eshan Baroree and Bungsee then came to him and told him not to trouble himself but to take the boat on at once to a spot called *Bareh Oulcah* in Mohunpore, and to *lagao* the boat under the large tree on the bank. These two men then got on shore themselves and with the other men proceeded by land, leaving two men of their party in charge of the boat. They returned about sunrise to the boat, bringing the prosecutor and a quantity of property with them. They then told them to loose the boat. Eshan and Bungsee, the zemindar's gomashta and naib, went at once to the cutcherry, after which the boat proceeded to Mohunpore *ghat*. After this, they proceeded with the prosecutor and his property to Chur Behandurpore, where they were captured by the villagers in the manner related above. The property which was taken in the boat and the ornaments found on the persons were all clearly proved, by the evidence of various witnesses, to belong to the prosecutor. Seven men, inhabitants of the prosecutor's village, also identified the prisoners as those engaged in the attack and plunder, and also swore to the property being the prosecutor's."

The sentence passed by the officiating judge on the prisoners then under trial was upheld on appeal by the Court of Nizamut Adawlut, on the 28th November, 1854, (page 676 of the Nizamut Adawlut Reports for that month.)

The two first of the prisoners committed on this occasion are Bungsee Rae naib of the zemindar and Eshan Baroree alluded to in the above extract from the officiating judge's report as hiring the boat, and whose non-apprehension, as being the chief offenders, the judge deeply regretted. The other two prisoners are zemindary peons.

The four pleaded *not guilty*.

Dismissing, as I am bound to do, with reference to the superior Court's recorded opinion of its worthlessness, the evidence of the eye-witnesses as entitled to no credit, I yet observe ample proof both on the previous record and in the prosecutor's evidence, and that of the Manjhee and boatmen taken on the present occasion to connect the prisoners with the outrage as its concoctors and active leaders. They hired the boat, collected and armed the men, led them to the spot, and in short headed them in the violence perpetrated on the prosecutor. If any further proof of their culpability were required, they have themselves furnished it. In their defence, they stated that they had been witnesses to a *mookhtearnamah* at Dacca on the 27th of January, (the outrage occurred on the night of the 26th) and to prove this plea, filed a copy of the *mookhtearnamah*, duly attested by the magistrate of Dacca, and bearing the requisite

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date. They also furnished the evidence of two mookhtears, who professing not to be able to recall the date to mind, still deposed that the prisoners had certainly been witnesses to the *mookhtearnamah*. Mohunpore, where the prosecutor lives, is so distant from Dacca that by no possibility could the prisoners be there at night and at Dacca on the next day.

Such a defence appeared perfectly complete, and yet I could not reconcile it with the, to my mind, strong and satisfactory reasons I had to believe that the prisoners were not merely engaged in the outrage, but were its originators and conductors. I therefore determined to send for the original *mookhtearnamah* which arrived with the following remark appended to it by the magistrate of Dacca "The date of this *mookhtearnamah*, being attested, has been altered. In the register-book, it was entered on the 17th February, 1854." And so indeed it was. The prisoners had managed, in anticipation of what might ensue, and in collusion with some of the amlah of the magistrate's office, to alter the date from the 17th February, to the 27th January, and then taking a copy, they filed it, to prove to me that they were at Dacca on that date. A bolder fraud more fortunately detected, I have seldom met with. The magistrate of Dacca, also sent me his register of *mookhtearnamahs*, from which it appears that no *mookhtearnamah* at all was presented on the 27th January. The alteration in the original *mookhtearnamah* is most palpable and obvious. The number it bears also corresponds with the number of the petition entered in the register on the 17th February. The forgery is as clear as forgery can possibly be, and its object, as clearly, was to provide the naib and gomashta with the means of escaping in the sessions court.

The prisoners Roza Gazi and Meher Ali (Nos. 14 and 15,) were identified in the lower court as well as in my court, as engaged in the outrage and attempted no defence.

The Mahomedan law officer found the prisoners guilty on the second count, in which verdict I concurred. Adverting to the leadership of the prisoners, Bungsee Buddun Rae, (No. 12,) and Eshan Chunder Baroree (No. 13,) I think that they merit severer punishment than the men who acted at their instigation and under their orders, and I therefore sentenced Bungsee Buddun and Eshan Chunder Baroree (Nos. 13 and 14,) to five years' imprisonment with labor in irons, and the prisoners Roza Gazi and Meher Ali (Nos. 14 and 15,) to three years' imprisonment and a fine of 100 Rs. each, payable on or before the 15th instant, or in default of payment to labor, until the fine be paid or the term of sentence expire.

After the release of the two first prisoners, they will be liable to be tried on the charge of forgery arising from the *mookhtearnamah* before alluded to.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoners who were mentioned so prominently by the witnesses for the prosecution, from the first, have relied, in appeal to this Court, in the impudent fraud of the *mookhtearnamah* so successfully detected and exposed by the sessions judge. We reject this appeal and confirm the sentence passed by the sessions judge.

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PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND DEEPCHAND CHUCKERBUTTY

versus

GUNGADHUR PAROOE.

Nuddea. 1855. September 18. Case of GUNGADHUR PAROOE. Sentence affirmed on appeal

CRIME CHARGED.—Dacoity in the house of Deepchand, prosecutor, in which property, to the value of Rs. 21-13, was plundered.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. A. J. Elliot, magistrate of Nuddea.

Tried before Mr. R. M. Skinner, officiating sessions judge of Nuddea, on the 21st July, 1855.

Remarks by the officiating sessions judge.—The prisoner confessed before the darogah and before the deputy magistrate; the confessions are attested by witnesses, who declare they were made voluntarily. The wound on the prisoner's arm corresponds with that described by the plaintiff in the deposition taken the day after the occurrence, as having been inflicted by him on one of the dacoits. The witnesses summoned by the prisoner do not account for the wound, of their own personal knowledge nor do they clear the defendant. Witness,* No. 11, overheard accomplices mentioning the name of the prisoner and witnesses Nos. 1, 12 and 13,† testify to the fact that the crime complained of by plaintiff, did occur. The prisoner is convicted on his own confession of the crime charged; I therefore sentence him to seven years' imprisonment with labor in irons.

* No. 11, Nobinchunder.

† No. 1, Essanchunder.
,, 12, Gopal Gazee.
,, 13, Bishoo Gazee.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We see no reason to interfere with this conviction.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND SHEIKH NAZIMDEE CHOWKEEDAR

versus

KALARAM SHAH.

Sylhet.

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Case of KALARAM SHAH.

The prisoner was sentenced capitally.

CRIME CHARGED.—Wilful murder of his wife Ranoo Dossee, wounding his son Doorgachurn an infant, and wounding himself.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 8th August, 1855.

Remarks by the sessions judge.—There are no eye-witnesses to the murder of Musst. Ranoo, and the wounding of Doorgachurn, but the neighbours came into the house immediately after the occurrence, and saw Musst. Ranoo lying dead with her head nearly severed from her body, while Doorgachurn and the prisoner were also severely wounded.

The prisoner confessed before the darogah and magistrate, that his wife having disregarded his order to her to bring him water to wash his mouth with, he became angry, and, seizing a *dao*, deliberately killed her with it, and accidentally wounded his child, Doorgachurn, at the same time, and that he thereupon attempted to take his own life.

Before this court he pleaded guilty to the charge of wilful murder, and persisted in the plea, after I had explained to him the nature of the crime charged. He made no defence and called no witnesses.

The body of Musst. Ranoo was in too decomposed a state for examination by the civil surgeon, but he deposes to the head being nearly severed from the body by some sharp weapon; he also deposes to the existence of several wounds on the person of Doorgachurn, a child of about four years of age, from which he is nearly recovered, and to the fracture of the skull of the prisoner and to some severe cuts on the scalp, but he is now perfectly recovered.

The assessors convict the prisoner of wilful murder, and, in this verdict, I concur, and, seeing no extenuating circumstances, recommend that he be sentenced capitally.

Aluckram, (witness No. 10,) was not examined by me as he was a child, only of about eight years of age and knew not the meaning of an oath.

The three witnesses to the *sooruthal* taken in the mofussil

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were unable to read or write, but they deposed to the nature of the wounds they saw.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The only provocation, assigned by the prisoner, for murdering his wife is her inattention to his request to bring him some water to wash his mouth.

The prisoner's own account of the deed affords no single extenuating circumstance on which we can consider him deserving of a mitigated sentence. We concur with the sessions judge in his conviction and sentence him capitally, as proposed in the sessions judge's letter of reference.

PRESENT:

A. DICK, ESQ., SIR R. BARLOW, BART., AND J. H. PATTON, ESQ. *Judges.*

GOVERNMENT AND MOFEEZOODDEEN

versus

HOOJAYI ALIAS HOOJUT ALLY SIRDAR (CALLS HIMSELF OZIR MAHOMED.)

Backergunge.

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Case of HOOJAYI *alias* HOOJUT ALLY SIRDAR (calls himself OZIR MAHOMED.)

Conviction and sentence passed by the sessions judge, upheld in appeal.

CRIME CHARGED.—1st count, wounding Kalachand Sirdar and forcibly carrying him away, on the 22nd of November, 1854, since which date Kalachand Sirdar has not been heard of; 2nd count, dacoity in the house of the prosecutor, plundering his property to the amount of Co.'s Rs. 23,942-4, wounding Kalachand Chung and forcibly carrying away Musst. Neeljah; 3rd count, knowingly and wilfully receiving and keeping the property obtained by dacoity.

CRIME ESTABLISHED.—1st count, dacoity in the house of plaintiff and carrying off property to a large amount and forcibly seizing and carrying away Kalachand Sirdar and Musst. Neeljah; 2nd count, knowingly and wilfully receiving and keeping property obtained in the above dacoity.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 4th June, 1855.

Remarks by the sessions judge.—This case is connected with the case No. 1, entered in my statement No. 6, for May last.

The particulars are as follows:

Early on the morning of the 8th of Agran, 1261, corresponding with the 22nd of November, 1854, five or six boats filled with armed men, appeared at Beeghai in which village is situated the two-storied *pucka* house of the prosecutor, this house is

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surrounded on three sides, the north, the south and the east, by a brick wall, the entrance facing the west. An attack was made upon this house by a gang of armed men, stated to be from 100 to 150 in number, and headed by the prisoner No. 16, Poornochunder Doss, and Muddun Sein, gomashtas of the prisoner No. 14, Kalleepershad Roy Chowdhree. Kalachand Sirdar and the witness No. 3, Kalachand Chung attempted to oppose the entrance of the armed men, Kalachand Sirdar was soon overcome and was carried off in a wounded state (it is alleged) to the boats of the dacoits; Kalachand Chung was also slightly wounded, he retired into the house of the prosecutor. Neeljah, witness No. 2, the grandmother of the prosecutor attempted to bar the door of the *Shah Durwaza* or principal entrance, the dacoits thrust their Soolfees at her, underneath the door and wounded her slightly on the foot. Neeljah was soon obliged to relinquish her hold of the door which was burst open by the dacoits. Neeljah was then seized and carried off at once to the boats of the dacoits. The prosecutor, who is a boy of fourteen years of age, ran to the upper story of the house and from thence jumped down; his fall was broken by a "*man-cutchoo*" tree, which is a yielding tree and he escaped through a back door in the northern outer wall. The dacoits having obtained an entrance into the premises commenced the plunder, doors and chests were broken, every creek and corner searched, the walls of a room in the lower story and also in the upper story were dug in the search for hidden treasure, wall-shades, hanging lamps, two lustres and every thing that could be laid hands on, were carried off. The description of the house, as given by the mohurrir of thannah Mirzagunge, proves an unusual degree of wanton destruction and violence.

Neeljah, witness No. 2, who is the guardian of the prosecutor, a minor, states her loss to Co.'s Rs. 23,942-4, of which 20,105 were cash and gold mohurs. Amongst a very large quantity of property carried off, was an iron chest of European manufacture. The dacoits remained for a considerable period in the prosecutor's house, they then retired to their boats with the plunder; as they were pushing of, Gopaul Singh, witness No. 45, a burkundaz of the Mirzagunge thannah, who was about some police work, appeared in a boat; he sounded his drum; the dacoits abused him and made off, carrying with them Neelja Beebee, witness No. 2, and Kalachand Sirdar, the latter party has not been heard of since the day of the dacoity. It appears that this Kalachand Sirdar is a *latial* by profession, he resides in the Furreedpore Zillah, but in what village is not known.

He was engaged by Neelja Beebee, witness No. 2, some months before the dacoity as a guard for her house and was also occasionally employed to collect rent. Neelja was discovered by the witness No. 49, Abbass. Burkundaz, near the house of the

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prisoner No. 14, Kalleepershad Roy Chowdree, who resides at Kulsokattee in the jurisdiction of the Augorea thannah; she was found on the 1st of December, 1854, some eight days after the dacoity. She was found alone and the information, which led to her being found, was given to the witness No. 49, Abbass Burkundaz, by one Suzawul, who lives in Charwa, but whose evidence has not been recorded either in the magistrate's court or in this. (For further detail see my remarks in the case* alluded to.)

The confession of Saree Mahomed, a prisioner in the same case, who has been convicted by me, implicates the prisoner in this case. A large quantity of property, proved to be a portion of the property of which the plaintiff was robbed, was found in the house of the prisoner. Some Soolfees were also found in his house, which circumstance proves that the prisoner is a "*lattial*" by profession. The evidence also proves that he took an active part in the dacoity committed in the house of the prosecutor. I have therefore sentenced him as follows.

Sentence passed by the lower court.—To be imprisoned for ten years with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. J. H. Patton).

Mr. A. Dick.—A large number of the articles plundered were given up, on the search of the prisoner's house, (in consequence of his being named by one of his confessing colleagues) by his father and wife, he himself absent. Some of these articles were of easy identification, and were identified as belonging to prosecutor. The prisoner could not account for their being in his house. One eye-witness to the dacoity clearly recognised him. He knew him before, and lives in the same village with him. He could not therefore be mistaken about his person in open day-light. Other witnesses also testify to his being in the dacoity, though not knowing him before, they had not named him. Without insisting on their evidence, the clear testimony of one credible witness, together with the finding of part of the plunder in his house, is sufficient to prove his guilt. I would not therefore interfere with his conviction, or the sentence passed on him.

Mr. J. H. Patton.—The proof against the prisoner is his recognition at the time of the occurrence, and the finding in his house of certain articles alleged to have been part of the property plundered from the prosecutor. As the witnesses, who now, (with one exception) depose to his having been present at the plunder, omitted to name him in the former trial in which his alleged associates were convicted and sentenced, I cannot consider their testimony sufficient to establish the fact of his complicity. Again referring to my remarks in the trial above

* Vide Nizamut Report, p. 391.

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alluded to in the case of the prisoners Nos. 12 and 18, I place no reliance on the finding of the property in his house as a circumstance tending to prove his guilt. Moreover, the discovery took place during his absence and he had no hand in producing the articles. For these, and the reasons stated in my former judgment, in the case out of which this appeal arises, I would acquit the prisoner.

Sir R. Barlow.—The prisoner was sentenced in the June statement to ten years' imprisonment, with labor and irons, on conviction of being a party in the last mentioned case. The prisoner denied throughout the trial. In the sessions he pleaded *alibi*, and stated the property, 100 articles in number, were found in the house of Chand Bewah and that his father, Goraie, did not produce them as alleged. He cited three witnesses in defence, but they say they know nothing in his favor. The property, of various kinds, has been recognised by witnesses for prosecution, who also swore to its having been produced from his house, and that of a female living close to him. I see no reason to interfere with the conviction and concur in the sentence passed upon him.

A list of the property should have been attached to the Calendar.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

SHAIK DOMUN (No. 1, AND TOOFANY SINGH (No. 2).

Dinagepore. 1855. September 24. Case of SHEIKH DOMUN and another.

The prisoners were convicted of affray attended with culpable homicide

CRIME CHARGED.—1st count, wilful murder of Umrit Singh; 2nd count, affray with murder of Umrit Singh, and severe wounding of Byrub Singh and Ramsurrun Singh.

Committing Officer.—Mr. E. C. Craster, officiating joint-magistrate of Maldah.

Tried before Mr. James Grant, sessions judge of Dinajpore, on the 17th of July, 1855.

Remarks by the sessions judge.—On the 7th April 1855, or 26th Chyte 1261, Umrit Singh was killed and Byrub Singh and Ramsurrun Singh were wounded in an affray; Umrit Singh is said to have been killed by the prisoner Toofany Singh, No. 2, and Byrub Singh is said to have been wounded by the prisoner Shaik Domun, No. 1. The cause of the affray was a *Julkur*, one portion of which belonged to "Enayutoollah" farmer of "Raneechatee," a Khaus Mehaul and the other to the Tutti-

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pore indigo factory. The former portion was held in farm at five rupees by Meehoo Muhuldar, witness No. 40, and the other at two rupees by Byrub Singh, witness No. 1. The portions of the Julkur were separated by a ridge mostly under water commencing opposite a tree on the bank. The evidence for the prosecution shows that Byrub Singh, witness No. 1, took some ten or fifteen men to fish in his portion of the Julkur, and after they had been fishing for some time a large party, headed by the brothers and Gomashta of the "Raneehatee" farmer on horse-back, arrived when Byrub Singh, witness No. 1, was abused and wounded by the prisoner Shaik Domun No. 1, under their orders and "Umrit Singh," while rushing to the rescue of "Byrub Singh," witness No. 1, was mortally wounded by the prisoner Toofany Singh, No. 2. The evidence is clear and in no way shaken by numerous questions put by several mookhtars on the part of the prisoners. The prisoner Shaik Domun No. 1, pleads an *alibi*, which is a failure; the evidence in support of it being incredible and contradictory. The prisoner Toofany Singh No. 2, pleads that he and four other Raneehatee Burkundazes, went to get some fish from Meehoo Muhuldar, witness No. 40, when Byrub Singh, witness No. 1, with upwards of one hundred armed men arrived. "Beogee Singh" struck "Domun Machooa" with a *lattee*, the other Machooas ran away, three gomashtas of three factories on horse-back ordered attack on "Raneehatee" men, he, the prisoner, wounded near the nose by Byrub Singh witness No. 1, and hit with a *lattee* by Sookul, fell and was afterwards taken home by Meehoo Muhuldar; witness No. 40, having formerly been a servant in the factory, is at enmity with Byrub Singh, witness No. 1, the jemadar and cannot say what became of his companions. This prisoner first appeared before the thannah mohurrir as a complainant, and his answer was afterwards taken by the darogah and again before the magistrate. There are discrepancies, but the substance of them all is, that Byrub Singh, witness No. 1's party, attacked, wounded him, beat and carried off his companions who have not since been heard of. In his answer before the darogah, only he is said to have mentioned Sheikh Domun No. 1, as one of his companions, but this I attribute to the roguery of the darogah, who appears to have been prepared to take the side of whichever party paid best. Sheikh Domun No. 1, previously apprehended, pleaded an *alibi*, and his being named by his accomplices might be made use of for the benefit of the factory party. On the other hand "Umrit Singh" in his deposition taken shortly before his death, is made to say that he was looking on, while the "Raneehatee" men were fishing, which is opposed to the case for the prosecution and that the attack was ordered by "Enayutoollah" (farmer of "Raneehatee") "Hematoollah" and "Deeanutoollah" while the case for the prosecution is that the orders were

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given by Hematoollah, Deeanutoollah and Abdool Halim gomashta. With a convenient foundation of this description there could be no great difficulty in pleasing either party, if advisable, or perhaps both, and this latter he appears to have attempted, as he reported that the farmer and his brothers were not present at the affray and that their lost burkundazes had not been carried off by the factory party. When the answer of Sheikh Domun No. 1, was finished and that of Toofany Singh No. 2, nearly so, their *mookhtars* presented an answer on their part which was filed. In respect to the latter prisoner it differs considerably from his own answer, and is evidently intended to confuse matters, as much as possible, for the benefit of the brothers and gomashta of the Raneehatee farmer, for whose apprehension warrants have been issued. They have managed to keep out of the way so as to have the benefit of this trial to guide them as to their line of defence. I see no reason to doubt the evidence of the wounded men (Byrub Singh witness No. 1, and Ramsurrun Singh witness No. 25,) and the other witnesses for the prosecution, and I consider the attempted defence, "that Meechoo Muhuldar witness No. 10, and his Muchooas were attacked by the factory party," a complete failure. The mark near "Toofany Singh" No. 2's nose had no appearance of having been caused by a spear; his companions, said to have been beaten and carried off, were not named as witnesses, and there was no attempt to prove what had actually become of them or to account for the killing of "Umrit Singh" and the wounding of "Byrub Singh" and "Ramsurrun Singh" otherwise than in the affray. The *futwa* of the law officer acquits the prisoners on the grounds that in the affray one man was killed and two wounded on one side, while one man was wounded and four were missing on the other side; that the evidence for the prosecution is contradictory and the evidence of persons, who were themselves engaged in the affray, inadmissible; that only one party is prosecuted and the punishment of only one party is out of the question. I cannot concur in the principle of the *futwa*, nor as to what it asserts as a fact in respect to a man having been wounded and four missing on one side. The latter is asserted by the prisoner Toofany Singh No. 2, but the assertion is not supported by appearance, probability or any distinct and credible evidence, and his thannah, foujdary and sessions statements are all discrepant. I consider the 2nd count, (culpable homicide, being substituted for murder) proved against the prisoners and recommend that they be sentenced to seven (7) years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) It has been urged by Mr. Welch and Mr. Allan, on the part of the prisoner Toofany, that he is not shewn to have been the aggressor, but had been struck by

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Umrit Singh before he returned the blow, which unfortunately proved fatal, and that the circumstances detailed in evidence afford no ground to presume that the affray was premeditated or justify the infliction of a severe sentence upon their client. The other prisoner Domun Singh, has been represented by Unoda Pershad, vakeel, who has pressed upon the Court the *alibi* set up by his client, and the evidence by which it is supported.

Having perused the record of this case, we concur with the sessions judge in convicting both the prisoners of the affray attended with culpable homicide, as charged in the indictment.

The Court see no force in the plea set up for Toofany Singh, that he was not the actual aggressor in the personal encounter between him and Umrit Singh. These two fought in the affray and the fact of Toofany being the acknowledged adherent of one party engaged therein, and of having joined in it with no other object than to attack or resist the force opposing his party, renders it a matter of no consequence whether he inflicted the wound, of which Umrit Singh died, in his own defence or not; his overt acts, as a party concerned, render him responsible for the whole result of the encounter. We see no reason to differ from the sessions judge as to the estimation he has placed on the evidence adduced by Domun Singh.

We convict both the prisoners of affray attended with culpable homicide and sentence them, as proposed, to seven years' imprisonment with labor.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

SHEIKH BEESHA.

Mymensingh.

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Case of SHEIKH BEESHA.

That part of the prisoner's confession, which was in palliation of his act, being contradicted by the state of the corpse he was convicted of wilful murder and sentenced capitally.

CRIME CHARGED.—Wilful murder of Mussumut Mogolee.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensingh.

Tried before Mr. W. T. Trotter, sessions judge of Mymensingh, on the 7th August, 1855.

Remarks by the sessions judge.—This is one of a number of cases of killing wives, a crime of frequent occurrence in this district. There is only one eye-witness* in the case, and she states that as she went to the banks of a *khall*, she saw a person in the jungle at a short distance raising and lowering his head; she called out to know who it was, when she saw the prisoner in the act of kicking his wife, the deceased, who was lying on the ground on her back apparently insensible, and as she went near, to her assistance, the prisoner ran away, she then gave the alarm, which soon collected the neighbours of the village, witnesses Nos.† 14, 15, 16 and 17. These persons only saw the prisoner running away, and found the deceased on the point of death.

* Musst. Beejoya.

† Musst. Jumoona.
Ram Gobind Molla.
Rujah Molla.
Gorah Teor.

The civil assistant surgeon, who held a *post mortem* examination on the corpse of the deceased, deposed that he found death to have been caused by a severe injury of the chest; that there were seven ribs on the left and eight on the right side fractured and the chest severely bruised; that these injuries must have been caused by heavy blows on the chest, and kicking in that region, or stamping on the chest would have been sufficient to have produced the injuries; and the probability is that she would die very soon after receiving such injuries.

The prisoner throughout admitted having assaulted his wife, which caused her death; but gave a somewhat different version of the matter during the several stages of the case. In the thannah, he said that his wife, the deceased, got angry with him and left his home for that of her sister, about three months previous to the occurrence; that on the day charged she went to the house of witness, No. 20, Ramjoy Poddar, (where the prisoner was employed) in order to barter spun thread for raw

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cotton, seeing her there, he taunted her by saying that "she now supports herself by spinning," to which she replied that "as she has been cast off by him, he has become virtually dead to her and she, a widow, procures her livelihood by spinning;" at this reply, he became much enraged, and as she was returning home he, followed her, seized her in the way and inflicted a severe blow on her shoulder with his fist, whereupon she fell down and died a short time afterwards. Before the magistrate and this court, he stated that he struck her at the house of witness, No. 20, Ramjoy Poddar, a blow on her shoulder and she immediately fell down and died, that he did not intend to kill her, nor did he suppose that it would cause her death; and that he struck her because she called herself a widow; but witness, No. 20, says that he did not assault her in his house, but after she had exchanged the thread he followed her out of his premises, and he afterwards heard that he killed her in the way.

The *futwa* of the law officer convicts him of culpable homicide and declares him liable to "*deeyut*," in which I concurred.

This is a very aggravating case; a poor young woman, aged about twenty years, is cast off by her husband for apparently some petty domestic quarrel, and seeks the protection of her sister and her sister's husband, who give her shelter, and she, as a virtuous woman (for her husband never said she was a bad woman) procures her livelihood by spinning thread, a profession generally followed by poor widows: her husband sees her in this state of poverty and instead of being moved by her appeal to his conscience, that by his conduct in casting her off, she has become virtually a widow, he becomes enraged and most brutally assaults her by fracturing fifteen of her ribs and bruising her chest which ends in her immediate death; and that though there is no evidence to show that murder was intended, yet from the reckless manner he assaulted the person he was bound to cherish and protect, and from whom he has received no provocation, I consider that any sentence short of (14) fourteen years' imprisonment, with labor and irons, would not satisfy the ends of justice and recommend the same accordingly.

Remarks by the Nizamut Adawlut. --(Present: Messrs. H. T. Raikes and B. J. Colvin.) There is some inconsistency between the account of this case, as given by the darogah in his reports and that furnished by the evidence afterwards.

It would appear from the mofussil papers that the deceased's brother-in-law, Abhoo, being alarmed at the absence of his sister-in-law, over the night of the 7th Assar, went to seek her on the 8th and took with him the two chowkedars, Wajet and Jawabdee, to assist in the search and was led to the discovery of her body by observing some crows hovering over the place where it was lying. He then took the body to the thannah,

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and the police accompanied him to the village and were engaged in investigating the case for two days before they found reason to suspect the prisoner, whom they then apprehended and who confessed at once to having followed and killed his wife by a blow of his fist without intedning to do so.

In the foujdary and sessions, the evidence of the witnesses makes it appear that the prisoner was seen kicking his wife by the witness, Bijoya, who called together some of the neighbours to assist the deceased, who however were only in time to see her expire and to recognize the prisoner as he ran away.

We are inclined to doubt the statements of these witnesses, not only as at variance with the first report made to the darogah, but also as not made till after the prisoner had confessed his guilt, and the police investigation had proceeded for two days without the witnesses coming forward.

It is not, however, very material in this case whether the evidence of these witnesses is reliable or not, as the confessions of the prisoner throughout, and the *post mortem* examination are sufficient to bring home the prisoner's guilt to him; but as the sessions judge has evidently relied upon this evidence in forming his own judgment of the facts, he should not have accepted such doubtful proof unquestioned without attempting to explain away the inconsistencies above alluded to.

The confessions of the prisoner are acknowledgments on his part that he killed his wife, but he attempts to palliate his guilt by declaring that he only struck her one blow with his fist when enraged at her speaking of him as already dead, and she fell down in convulsions and died on the spot. His assertion that this took place at Ramjoy's house is contradicted by Ramjoy's own evidence, and the fact of the body having been discovered in another place. It is also clearly proved by the *post mortem* examination that deceased had been subjected to more cruel and brutal treatment than is accounted for by the prisoner's statement, having had fifteen of her ribs fractured and injuries on her chest, which must have caused almost immediate death. With such results before us, it is impossible to believe the self-serving defence of the prisoner either as to the cause of death, or the absence of any malevolent intention on his part in assaulting her. There is no room to doubt that he followed her from Ramjoy's house with the most vindictive motives and having got her on the ground, savagely kicked and trampled the life out of her. We see nothing in the provocation he pleads to alleviate the enormity of his guilt, and dissenting from the finding of the sessions judge and the *futwa*, we convict the prisoner of the wilful murder of his wife and sentence him to capital punishment

PRESENT:
H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND SEBO HAJUNG
versus
POSSUNDRAM ALIAS RAM.

Assam.

1855.

September 25.

Case of POSSUNDRAM *alias* RAM.

The prisoner's sanity, when he committed the deed, being established, he was convicted of murder.

CRIME CHARGED.—Wilful murder of the prosecutor's brother, Rampersaud, on the night of the 23rd May, 1855, corresponding with 10th of Jeth, 1262.

Committing Officer.—Captain W. Agnew, magistrate of Gowalparah.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 11th July, 1855.

Remarks by the deputy commissioner.—In this case the prosecutor is the brother, and the prisoner the cousin of the deceased, and they all lived in the same homestead, although occupying different huts, apparently on good terms, although it appears that four days before the murder, there had been a disputation between the deceased and the prisoner about wages, alleged to be due by the latter to Hori, the younger brother of the former, for herding cattle. On the night of the murder the prosecutor and Phoolchand were sleeping in one hut; the prisoner in another, and the deceased and his brother Hori in a third, with the door open, Hori was awoke by the cries of the deceased, when he perceived by the light of the moon, which shone through the openings in the wall, the prisoner standing with a *dao* in his hand; the cries brought the prosecutor and Phoolchand to the spot, when they met the prisoner at the door, with the *dao* in his hand, but were afraid without assistance to lay hold of him, so they went into the hut, and having procured a light, saw the deceased weltering in blood with his throat cut, and he could only articulate that Ram had done it; the cut was six fingers long, by three deep, and from the effects, he died in the course of the night: having now been joined by two neighbours, likewise attracted by the cries, they all proceeded to the prisoner's whom they found in his hut with the bloody *dao* in his hand. He appears to have offered no resistance and to have confessed to the murder; his confession was repeated before the police, and before the magistrate, when the only reason, alleged for the deed, was, that he apprehended the deceased would kill him.

In consequence of it being stated, that the prisoner had been subject to fits of insanity, he was placed under the surveillance of the civil surgeon, and afterwards brought to trial. Before a jury, when called on to plead to the charge, his answer was incoherent and he made no defence.

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Two, out of a jury of three, convicted the prisoner of the charge of wilful murder, while the minority and the magistrate would acquit him on the plea of insanity, and the magistrate, in his letter of commitment, gives the following as the grounds on which he came to the opinion, viz. "All the witnesses testify to the prisoner having been deranged previous to the commission of the murder, but they state that he had recovered his senses for some time before that event happened. There is considerable diversity in their evidence, you will observe, as to the length of time that had elapsed between the prisoner's restoration to his right mind, and the date of the crime, and indeed it would appear that at least, he had only enjoyed lucid intervals, for all the witnesses say, that he, every now and then, showed symptoms of a disordered intellect, with the exception of the prosecutor and Boodgiri, however, all the witnesses allege that he appeared sane when he was apprehended.

"The evidence of the civil surgeon is very positive as to the prisoner's present sanity; he states that he saw him in jail about ten times, and that he never showed, either by his replies to questions put, or by his general demeanor, any symptom of *mania*. Dr. Ridsdale is further of opinion, both from the evidence of the witnesses, his own observation, and the existence, slight though it be, of a motive for enmity, that the prisoner was *compos mentis* when he killed the deceased. Now, whatever diffidence I may feel in dissenting from the opinion of the medical officer, on a professional question, I am bound to say that I cannot concur with him in the conclusion he has arrived at, on either point.

"His physical appearance, his manner and speech, all, to my mind, proclaim the disorder of the prisoner's brain, I have attentively watched him during his trial, and also when he was first brought in, and I am convinced his mind wanders, he is quiet, and obedient, and does not attempt to affect madness, but he seems uneasy, has a vacant look, picks at his body, and has not returned a rational answer to a single question I have put to him. His *monomania*, too, with regard to the deceased's determination to kill him, although it is affirmed they were on good terms till the quarrel about Hori's wages occurred, is very strong presumptive proof of the unsound state of his mind, a fancy of this kind being one of the most common of those that haunt the distempered imagination of the insane.

"Again, the manner in which the prisoner was found when arrested is certainly indicative of mental aberration, at that point of time, for, although he had had ample leisure for concealing the *dao*, or indeed of escaping if he had liked, he is found sitting in his house with the bloody weapon in his hand, the very act I think of a lunatic; coupling this, therefore, with the admitted fact of the prisoner's derangement, and occasional

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relapses, previously to the day of the crime, the absence of any cause, under ordinary circumstances to provoke so fearful a retaliation, and in my judgment, the present lunacy of the prisoner, I would, in concurrence with the verdict of the Juror Kumbo Hazakya, acquit the prisoner on the grounds of insanity, and deal with him according to the provisions of Act IV. of 1849."

Opinion of the deputy commissioner.—The fact, of the prisoner, Possundram *alias* Ram, having killed the deceased by cutting his throat, has been fully established by the evidence, and in considering the question as to whether the prisoner was a responsible agent at the time or no, there are the depositions of the prosecutor and four witnesses, all relations or near neighbours, to show that he had at times been subject to fits of insanity, although they differ considerably as to the date of the last attack, all agree that he had shown no symptoms of the kind for some time previous to the commission of the deed; that he was able to manage his affairs, and that he could hold his own, is shown by his disputing about Hori's wages. The prosecutor and witness No. 3, say, that he appeared strange, or not in his right mind when apprehended, but the other three witnesses, then present, state the contrary; he further appears from his confessions to have been aware of what he had been doing when he killed the deceased, and Mr. Ridsdale, civil surgeon, deposes he could discover no indications of insanity in the prisoner, from which I come to the conclusion that the prisoner, although a person of weak intellect, was yet a responsible agent at the time he committed the crime, I therefore convict him, Possundram *alias* Ram, of the wilful murder of Rampersaud, but, taking into consideration the circumstance of his previous mental infirmity into account, I recommend that he be sentenced to imprisonment for life with labor in irons, my reason for not recommending transportation is the possibility of his having a return of temporary insanity.

Remarks by the Nizamut Adawlut. -(Present: Messrs. H. T. Raikes and B. J. Colvin.) There can be no doubt that the prisoner committed the murder. The only point for consideration is that raised by the magistrate as to his sanity at the time. We think that the opinion expressed by the magistrate, as to his own impressions of the prisoner's state at the time of trial, are sufficiently met by the evidence of Dr. Ridsdale, who had carefully watched him previous to and during the trial, so that no inference of the prisoner's insanity at the time of the murder, can be safely drawn from his appearance and conduct in the magistrate's court.

We have, moreover, the evidence of those who had known the prisoner long, and had been accustomed to see him, while laboring under those abberrations of mind to which he was subject.

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The majority of them affirm that he was not so affected when seen by them immediately after the deed. There is no reason to discredit the honesty of their evidence in this respect, and it is so far corroborative of the medical opinion in favor of the prisoner's sanity. We therefore are bound to convict him of the murder, but giving due weight to the reasons advanced by the deputy commissioner, we sentence him, as proposed, to imprisonment for life with labor in irons.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

MUSST. PEAREE.

Midnapore.

1855.

September 26.

Case of MUSST. PEAREE.

CRIME CHARGED.—Being by profession a dacoit, and having belonged to a gang of dacoits.

Committing Officer —Leiut. C. H. Keighly, assistant general superintendant and assistant to the dacoity commissioner, Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 2nd July, 1855.

The prisoner, a female, convicted of being by profession a dacoit and of having belonged to a gang of dacoits, was sentenced to imprisonment for life.

Remarks by the sessions judge.—The prisoner confessed before the assistant superintendent to having been concerned in eleven gang-robberies, and that she gains a livelihood as a dacoit. These confessions she declares in this case to be true and to have been voluntarily given. They are corroborated by the documentary evidence, noted in the margin,* and by the sentence she is now undergoing of nine years' imprisonment for being concerned in a dacoity attended with aggravated circumstances, and seeing no reason to doubt their truth and that the prisoner is what she represents herself to be, I convict her of the charge on which she is arraigned and recommend that she be sentenced to imprisonment for life with labor suited to her sex.

* Case No. 390, dacoity in the house of Bydenath Ghose.
Case No. 399, dacoity in the house of Juggut Potdar.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The Court concur with the sessions judge and in the sentence proposed.

PRESENT:

B. J. COLVIN, Esq., *Judge*.

GOVERNMENT AND MESSER CAZEE

versus

ERUN SHAH (No 1,) AND TUMEEZUDDEEN (No. 4.)

Dacca.

1855.

September 26.

Case of ERUN SHAH and another.

The guilt of the prisoners being established, their appeal was rejected.

CRIME CHARGED.—1st count, burglariously entering the house of Messer Cazee, prosecutor, and stealing therefrom silver and gold ornaments, gold mohurs and cash, &c, valued at Co.'s Rs. 978-12; 2nd count, receiving and possessing portions of the stolen property knowing them to have been so acquired; 3rd count, being accessary to the above crime both before and after the fact.

CRIME ESTABLISHED.—Possessing stolen property, knowing the same to have been stolen.

Committing Officer.—Mr. H. C. Raikes, joint-magistrate of Furreedpore.

Tried before Mr. S Bowring, sessions judge of Dacca, on the 16th July, 1855.

Remarks by the sessions judge.—The prosecutor stated, that his house was burglariously entered, and property consisting of money and ornaments, buried on the premises, stolen to the value of Rs. 978-12. A woman, named Soopun, employed to clean the house, having become acquainted with the fact of the property being buried on the spot, a few days before, suspicion fell on her son Jaun Mahomed, and his associates. Their houses were searched, and in those of the prisoners, ornaments to some amount found, which ornaments were recognized by the prosecutor.

The prisoners pleaded *not guilty* throughout. No 1, Erun Shah, in this court, stated, 1st, that the stolen property had been placed in his, the prisoner's house, by the prosecutor, 2nd, that he, prisoner, was absent from the village on that date, 3rd that the gold mohurs are his own property. He also called witnesses to character.

The prisoner Tumeezuddeen No 4, also pleaded enmity of the prosecutor, and that the stolen property had been maliciously introduced into his house

Both the prisoner called witnesses

The law officer convicted the prisoners on the two first counts, but I can only agree with him as regards the 2nd count, viz., being in possession of stolen property, knowing it to be such.

The plea of Erun Shah, prisoner No. 1, that the stolen property was placed in his house, is supported by several witnesses, who say that Rohatoollah approached the premises with a

1855. September 26. Case of ERUN SHAH and another.

bundle, but the evidence is inconsistent, as such an act would not have been done before so many persons, several of whom differ in their statements, besides no grounds for enmity between the parties have been shown. The prisoner says, his quarrel is with Kaloo, a friend only of the prosecutor, but his witnesses say the quarrel is with the prosecutor himself, about land. No question of the sort was put to the prosecutor or his witnesses, and it is improbable that the prosecutor, even if he wished to indulge his malice, would have trusted property to so large an amount on the prisoner's premises. It is true there seems to have been some delay in searching the house, but this may be accounted for from the number of houses then surrounded by the police.

The 2nd plea is indifferently proved, but even if established, is consistent with the prisoner being in possession of the property, knowing it to have been stolen.

Witnesses deposed to the gold coin being the property of the prisoner, but these witnesses also stated that the prisoner was of good character, and that they did not know he had been imprisoned for theft. If they spoke truly, their knowledge of him must have been very slight.

The pleas of the prisoner, Tumeezuddeen No. 4, were not established by the witnesses.

The prisoner, No 1, Erun Shah, was formerly convicted of theft, and on another occasion called on for security, as of bad character. Tumeezuddeen was also convicted of fraud, and likewise called on for security. In the house of the former, much property supposed to have been stolen, was found, though no owners have yet appeared, and also two *seend katies*, which can only be intended for burglarious purposes. Considering Erun Shah, therefore, a confirmed bad character, and possibly the head of a gang, I have banished him the district.

Sentence passed by the lower court.—Prisoner No. 1, to be imprisoned for the period of seven years and two years in lieu of corporal punishment, in all nine years, with labor and in irons in banishment from the district. Prisoner No. 4, to be imprisoned for the period of seven years with labor and in irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) In this case, the fact of the burglary having taken place is proved. The prisoners are shewn to be of bad character. Their defence is not established. Seeing no reason for interference, I reject their appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

CALLYCHURN CHATTERJEA.

Moorshedabad.

1855.

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Case of CALLYCHURN CHATTERJEA.

The prisoner was acquitted of the perjury charged on contradictory statements, on the ground that the second statement was not material to the issue of the case.

CRIME CHARGED.—Perjury in having on the 3rd June, 1855, intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before O. Toogood, Esq., magistrate of Moorshedabad, that he was sitting in the house of Radharunun Sircar, at night, when Rajub Dagee brought a piece of shawl, gold and silver ornaments and many other things, and gave to the above named Sircar and Byednath Sircar, and, they took these articles and kept them in their houses; that he believed them to have been acquired by theft or dacoity, and if their houses were searched the property might be found; and in having, on the 8th June, 1855, again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before O. Toogood, Esq., the said magistrate, of the said district, that he was instructed by Purresh Sircar to make the aforesaid deposition in order that their houses might be searched, and that the deposition which he gave on the 3rd of June, was entirely false; such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 10th July, 1855.

Remarks by the sessions judge.—The charge of perjury is clearly proved against the prisoner.

He admits it and in his defence states that his first statement before the magistrate, on the 3rd June, 1855, which was false, was given by the direction of Purresh Sircar.

The crime of perjury appears to be on the increase, and pollutes the course of justice in all our courts, civil and criminal.

The *futwa* convicts, and I sentence the prisoner to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The second statement of the prisoner was improperly taken on oath, as he did not appear before the magistrate to prefer any fresh charge or to substantiate the falsehood previously sworn to by him, but to admit having sworn falsely at the instigation of a third party. No case was then pending and the prisoner's contradiction was therefore

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Case of CALLYCHURN CHATTERJEA.

not material. The charge therefore of *contradictory* statements cannot stand, and it appears to the Court that the sessions judge has convicted the prisoner of perjury on the ground of the first statement being false. This appears to be the fact, but that perjury is not the perjury charged. The conviction upon it cannot therefore be upheld. We direct the release of the prisoner.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT AND PULLANOO DOSS
versus
JADOOLLA SIRCAR.

Dinagepore.

1855.

September 26.

Case of JADOOLLA SIRCAR.

On sufficient proof of the prisoner's guilt, his appeal was rejected.

CRIME CHARGED.—1st count, forgery, in having fabricated a letter dated 26th Assin, 1261, B S, purporting to have been written and signed by Sheikh Dowlut Mahomed; 2nd count, uttering the above forged letter knowing it to have been forged; 3rd count, fraud in having obtained 50 Rs. from Omerchand Shah, under a false name upon a letter purporting to have been written by Dowlut Mundul.

CRIME ESTABLISHED.—Fraud in having obtained 50 Rs. from Omerchand Shah, under a false name upon a letter purporting to have been written by Dowlut Mundul.

Committing Officer. –Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr. J. Grant, sessions judge of Dinagepore, on the 22nd May, 1855.

Remarks by the sessions judge.—The prisoner presented a letter purporting to be from "Dowlut Mundul" requesting the loan of 50 Rs. and gave a bond for the amount under the signature of "Dedar," afterwards when addressed in a *haut* as Dedar, by the prosecutor, he absconded and it turned out that his name was Jadoolla, and that he had received no authority from Dowlut Mundul to borrow money on his account. In the foujdary the prisoner stated that, when Dowlut told him to get the money, he said the mahajun would probably require a bond and he objected to signing his own name on which Dowlut told him to make use of some other name, so he had signed as "Dedar." In the sessions court he pleaded that he gave the money to Dowlut's man, who accompanied him, and put the name of "Dedar" to the bond as he then believed that was his name though it now turns out to be Zahir Mahomed. The case was clearly proved, the *futwa* of the law officer convicted the prisoner and I concurred.

1855.

September 12.

Case of JADOOLLA SIRCAR.

Sentence passed by the lower court.—Imprisonment for seven years with labor and irons and to pay a fine of 50 Rs. for the benefit of the said Omerchand Shah under Act XVI. of 1850.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The prisoner has acknowledged that he received the money, but has differed in his statements before the magistrate and sessions judge, as to how he was sent for it. In either case, his defence is not proved by his witnesses, one of whom says he has before been convicted of passing base coin.

I see no reason to interfere with the conviction and sentence.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT

versus

CHOOLOO SOOHO.

Mymensingh.

1855.

September 26.

Case of CHOOLOO SOOHO.

The prisoner was acquitted of the culpable homicide of the deceased, whom he had slain whilst attempting to violate his wife.

CRIME CHARGED.—Wilful murder of Kumteeram Deb.

CRIME ESTABLISHED.—Culpable homicide.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensingh.

Tried before Mr. W. Trotter, sessions judge of Mymensingh, on the 20th June, 1855.

Remarks by the sessions judge.—From the evidence recorded on the trial, it appears that the deceased entered the house of the prisoner and was about to violate his wife, when she made a noise and the prisoner, who was at work in the fields behind the house, hearing the uproar, came to her assistance and having seized the deceased, inflicted two blows upon him, one on the head and the other on the left side, which ended in his death on the same day in the evening. There were no eye-witnesses to the assault, except the prisoner's wife, who, although she corroborated the above statements of the witnesses, who had heard of the event from the deceased and the prisoner, stated that the deceased died of cholera. The civil assistant surgeon, who examined the body, deposes to death having been caused by rupture of the spleen, and added that there was a bruise on the deceased's right cheek and knee and a small lacerated wound on the right side of the head.

The prisoner admitted throughout having assaulted the deceased for his improper conduct towards his wife, but states that he died of cholera and named witnesses on that point, and, although they depose to having seen him attacked with that malady, still their evidence cannot weigh down that of the civil

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Case of CHOOLOO SOOHO.

surgeon, who distinctly deposes to death having been caused by rupture of the spleen. I concur in the *futwa* of the law officer, which convicts the prisoner of culpable homicide, and, taking into consideration the great provocation, sentence him to only six months' imprisonment without irons, and to pay a fine of 25 Rs. or in default, to labor until the fine be paid or the period of sentence expires.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart, and Mr. H. T. Raikes) The Court are of opinion that, under the circumstances of great aggravation, the prisoner should have been acquitted, he must be immediately released.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT

versus

PEERBUX, (No. 9, APPELLANT,) KASIM ALLY, (No. 10,) EMAMBUX ALIAS BUXEE, (No. 11.)

Patna.

1855.

September 26.

Case of PEERBUX and others.

Appeal rejected there being strong presumptive proof of prisoner's guilt.

CRIME CHARGED —No 9, culpable homicide of his brother Soobratee; Nos. 10 and 11, accessaries after the fact and concealment.

CRIME ESTABLISHED - As crime charged.

Committing Officer.—Lieutenant R. R. Harris, cantonment joint-magistrate.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 12th May, 1855.

Remarks by the officiating sessions judge.—It is to my mind amply proved, both by the direct and circumstantial evidence and by the admissions of the prisoners before the magistrate and myself, that, on or about the 23d ultimo, the deceased and Peerbux, prisoner, had a drunken quarrel in which the latter repeatedly and violently assaulted the former; that the deceased was that same night comatose from the beating; that he died the next day, and that the three prisoners put the body in a box and threw it into the river. The prisoners have offered no proof whatever that the deceased died from natural causes, as they were bound to do, the presumption being the other way. The evidence for the defence goes to show Peerbux a loose, and the other two good characters. The case would have been far clearer and better managed had Emambux, prisoner, been made a witness; but it is nevertheless sufficiently clear wtihout for a verdict of conviction. In concurrence with the law officer, I convict prisoner No. 9, of culpable homicide, as charged, and sentence him to three years' imprisonment and labor, commutable to a fine of 25 Rs. if paid within fifteen days. The other

two prisoners, Nos. 10 and 11, I convict of being accessaries thereto after the fact, and I sentence each to three months' simple imprisonment.

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Case of PEER BUX and others.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The prisoner has urged nothing in his petition of appeal. It is evident that he and his brother, deceased, had been drinking and quarrelled. The prisoner also allows having struck his brother and that he is dead, and that his body was thrown into the river. I see no reason for interference.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT ON THE PROSECUTION OF MUSST. DALOO

versus

KEENAH SHEIKH.

Assam.

1855.

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Case of KEENAH SHEIKH.

Prisoner convicted of rape, sentenced to seven years' imprisonment. Appeal rejected.

CRIME CHARGED.—Rape.

CRIME ESTABLISHED.—Rape

Committing Officer.—Captain Agnew, magistrate of Gowalparah.

Tried before Captain H. Vetch, officiating sessions judge and deputy commissioner of Assam, on the 23rd May, 1855.

Remarks by the officiating sessions judge and deputy commissioner.—It appears from the statement of the prosecutrix, Musst. Daloo, that she was returning home, when the prisoner, who seems to have been lying in wait for her, dragged her into the jungles and effected his purpose, three persons passing by, hearing her cries, came to her assistance. The prisoner pleaded *not guilty* and *alibi.*

Three witnesses depose to having heard the prosecutrix calling out that the prisoner was taking her caste, and going to the spot, two of them saw the woman in a nearly naked state, and the prisoner running off, she had all the appearance of having been assaulted, but they cannot say whether the rape was perpetrated.

The witnesses for the defence do not establish the *alibi.*

The jury and the magistrate were unanimous in the verdict of guilty. I am of opinion that the crime of rape has been established against the prisoner, and there does not appear to be any extenuating circumstance in his favour.

Sentence passed by the lower court.—To seven years' imprisonment with labor in irons from this date.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner's defence is unsatisfactory; there is no reason for interference. Appeal rejected.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND MR. A DAVIDSON

versus

HARROO DUTT ALIAS HURNARAIN DUTT, GOVERNMENT PLEADER (NO. 7,) AND MOULVEE ABOOL FURREH, VAKEEL (NO. 8,) NITYANAND* DOSS, VAKEEL (NO. 9.)

Midnapore.

1855.

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Case of HARROO DUTT *alias* HURNARAIN DUTT and others.

The prisoners who were convicted of calumny, regarding the principal sudder ameen, by the sessions judge, were acquitted in appeal.

CRIME CHARGED.—Conspiracy, in having on some days between the 12th February and 23d of March 1855, corresponding with 2d Phalgoon and 12th Choitree, wilfully and maliciously conspired and agreed together falsely to accuse A. Davidson, Esquire, principal sudder ameen of Midnapore, that he had taken a bribe of Co.'s Rs 10,000, in the case of Nundgopal Satputee, when acting as judge in the said case, with the intention of preventing the course of justice by frightening thereby the aforesaid A. Davidson, Esquire, principal sudder ameen of Midnapore, into deciding the case in their own favor; 2nd count, with gross calumny in having on some days between the 12th February and 23rd March, 1855, corresponding with 2nd Falgoon and 12th Choitree 1262, with the unlawful and malicious intention of villifying and injuring A. Davidson, Esq. principal sudder ameen of Midnapore, of depriving him of his good name and reputation, and of bringing the administration of justice into contempt wilfully and knowingly in the presence and hearing of divers persons said that the aforesaid A. Davidson, Esq. principal sudder ameen of Midnapore, had taken a bribe of Co.'s Rs. 10,000 in the case of Nundgopal Satputee, while acting as judge in the case, knowing the said accusations to be false and malicious.

CRIME ESTABLISHED.—Calumny on prisoner, No. 7, and aiding and abetting thereon on prisoner No. 8.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 15th August, 1855.

Remarks by the sessions judge.—The prisoners are charged on two counts, first with conspiracy, falsely to accuse A. Davidson, Esq. the principal sudder ameen, of taking a bribe of 10,000 Rs and 2nd with calumny, in accusing the aforesaid A. Davidson, of taking a bribe of 10,000 Rs. with the malicious intention of villifying and injuring his character with a view of bringing

* Acquitted by the Lower Court.

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Case of HARROO DUTT *alias* HURNARAIN DUTT and others.

the administration of justice into contempt and intimidating the said principal sudder ameen in the execution of his duty. It is in evidence that the prisoner, No. 7, Hurnarain Dutt, as a vakeel of Mr. Davidson's (the principal sudder ameen's) court, not only undertook as a vakeel to advocate the cause of one Nundgopal Satputee, but advanced all the money to meet the expenses attendant thereon, including the personal expenses of plaintiff. The prisoner, No. 8, Abool Furreh, was also entertained to assist in conducting the said case. A short time before the suit was finally disposed of on the 9th March, the principal sudder ameen detected and pointed out a flaw in the pleadings which, in his opinion, might be fatal to the plaintiff's claim. The prisoner, No. 7, Hurnarain Dutt, contended that the flaw noticed by the principal sudder ameen was no bar to the suit, but failing to convince that officer, the prisoner became excited and annoyed, and the circumstances which gave rise to the present prosecution immediately followed. After leaving the court two or three days prior to the decision of the case, he, Hurnarain Dutt, said to the witness No. 1, that the suit could *not* be dismissed, accompanying his remarks with a threat, that if such were given, he would chew or eat the principal sudder ameen. The evidence of the other witnesses further tends to prove that a day or two previous to the 9th March, and on that day, the prisoner Hurnarain Dutt, No. 7, and Abool Furreh No. 8, openly stated, in the verandah of the court and in the record office of the judge, that the case of Nundgopal Satputee would go against them, because the principal sudder ameen, Mr. Davidson, had been tampered with, and that a bribe of 10,000 Rs. had been paid to him through the translator, Mr. Ross, and that this information was derived from a respectable party. This calumny thus propagated became matter of general conversation and, of course, reached the ears of the prosecutor as well as others, and led the former to institute these proceedings. The prisoner No. 7, denied before the magistrate that the report had emanated from him and cited witnesses to prove that it had originated in other quarters, but also stated by inference that there were and are grounds for the calumny, and that they will be apparent from the record of the case of Nundgopal Satputee and other sources if a regular inquiry into the conduct of the principal sudder ameen be instituted. In this court, the prisoner varies his defence, so far as to omit the plea of justification, but cites the same witnesses as adduced below to prove the calumny had originated with other parties and not with the prisoner. The prisoner No. 8, denied his guilt both before the magistrate and in this court

Vide evidence of witnesses Nos. 1 and 2.

Vide evidence of witnesses Nos. 5, 6, 7, 9, 10, 12 and 13.

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and cited witnesses to character. In his defence before the magistrate, he admits that he stated in the Mohafiz Khana that "Durbar Sajee" had been resorted to, but that he did not intend it to apply to the principal sudder ameen. The trial was held with the assistance of the assessor mentioned in the margin,* who, after a most patient investigation, declared the prisoner No. 7, Hurnarain Dutt, guilty of the charges set forth in the indictment, with the exception of conspiracy, which they did not consider proven and the prisoner, No. 8, Abool Furreh, as an aider and abettor therein. I concur in this finding, the evidence of the witness, No. 6, Mynooddeen corroborated as it is by that of other witnesses is, I think, conclusive that the prisoners originated and propagated a false and malicious report against the prosecutor, with a view to intimidate him in the execution of his duty and thereby to bring the administration of justice into contempt. The whole tenor of the defence of the prisoner No. 7, before the magistrate, is indirectly a justification of the calumny which had been in circulation against Mr. Davidson's character, and the prisoner attempts unsuccessfully, in my opinion, to throw the responsibility of the authorship on other parties. In this court, he produces a few witnesses with a view to prove that the accusation against the principal sudder ameen did not originate with him, but as they deposed to having heard what they state subsequent to the 9th March, when the scandal had become generally known, I attach little value to their testimony. The prisoner, No. 7, demurs that the other witnesses, whom he cites, have not appeared. These persons however he neither named nor produced in the lower court. The magistrate has taken every means to secure their attendance in this court without success. It may, however be observed that they are for the most part the defendants in the case which gave rise to this inquiry or their relations, and as the prisoner is unable to point out that their evidence is essential to the issue of his case, and as there are grounds for believing that he wishes to harass them by bringing them into court, I have not thought it requisite to press their attendance. The prisoner No. 8, Abool Furreh, pleads that he had no object in calumniating the principal sudder ameen. as he gained nothing by the suit instituted by Nundgopal, and that he only became an advocate at the solicitation of prisoner No. 9, Nittanund Doss, (acquitted) but it is in evidence that there were other causes, which might, and probably did, influence the prisoner and induced him to assist in propagating the slander of the prosecutor. The principal sudder ameen had a short time before dismissed a case, in which the prisoner was *himself the plaintiff* and this case is *now* pending in appeal before the judge; it is likewise in evidence,

* E. Baker, Esq. Baboo Rajnarain Bose, and Pursonochunder Banerjee.

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and the prisoner confesses the fact, that on one occasion he insulted the prosecutor on the bench by using disrespectful and improper language towards him, and although he might not, as he alleges, have gained much by the result of Nundgopal's case, if it had been given in his favor, yet the facts above stated supplied quite sufficient motive, in my opinion, for the prisoner to join in a scheme for injuring the prosecutor's good name. The whole of the evidence, both for the prosecution and defence, is consistent in declaring that previous to the time when Nundgopal Satputee's case came on for trial and was finally decided, that is between the 12th February and 23rd March, Mr. Davidson, the principal sudder ameen, bore throughout the district the highest character for integrity and uprightness. It was only when the prosecutor's proceedings in the case of Nundgopal Satputee were impugned by the prisoner, No. 7, that the calumny, the ground of prosecution was heard or spoken of: Hurnarain Dutt *principally* was interested in the result of that case, as proved by the documentary evidence (Nundgopal, Satputee being a mere creature in his hands), and the presumption is fully warranted by the evidence that he, seconded by the prisoner, No. 8, originated and circulated the slander of the prosecutor from a feeling of vexation at losing the case, and a desire to gratify the revenge, which the prosecutor's decision and other causes had excited; I think there is a distinction in the guilt of the parties. The prisoner, Hurnarain, was the originator and propagator of the calumny and that the prisoner, No. 8, was an aider and abetter therein, and I have accordingly sentenced them as recorded below.

Sentence passed by the lower court.—No 7, to six months, and No. 8, to three months' imprisonment, without labor and irons, and to pay a fine of 200 Rs. each, or in default to further imprisonment, the former for six months and the latter for three months

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and J. H. Patton.)

Mr. A. Dick.—The charge, on which the prisoners have been tried, is calumny against the principal sudder ameen, with respect to his public conduct as a judge; and is, in my opinion, a very heinous offence; and punishable both according to Mahomedan law, and under our regulations; could I rely on the veracity of the witnesses for the prosecution, I should determine that it had been sufficiently proved against both prisoners; and fully against the prisoner, No. 7, Hurnarain Dutt, the Government pleader. When, however, it appears, as pointed out by Mr. Norris for the defence, that those very witnesses, whose testimony proves the charge, were named as witnesses to establish charges of a highly criminal nature in two previous cases against the prisoner, No. 7, Hurnarain Dutt: and that the occasions on which he is stated by

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them to have uttered the calumny before them indicate a familiarity and confidence, which could scarcely have existed after they had been twice named to convict him of highly criminal offences: and when I observe, that the very same mokhtear, who conducted both those cases, has been appointed to conduct this, I cannot place the least reliance on their veracity. Moreover, very many of the witnesses for the prosecution were employed on the opposite side to the prisoners in the suit, in respect to which the calumny is said to have been uttered. Calumny requires to be proved by the clearest, and most unexceptionable evidence. It is to be regretted, that the principal sudder ameen, before prosecuting on such a charge, had not secured the testimony of witnesses wholly unconnected with either party in the suit: and whose partiality or illwill towards the prisoners could not be suspected: and it is most unfortunate, that he should have selected the very man to conduct his case, who had in vain conducted two cases against the principal offender. From the high and well known character for probity, which the principal sudder ameen has always borne, I am satisfied he knew not that the witnesses had, most of them, been twice before named as witnesses against the principal prisoner, No. 7, or that the mookhtear had been in like manner twice employed against the said prisoner.

There is proof on record, and admitted by prisoner, No. 7, that he paid the expenses of the suit against the defendant, Bhurutchurn Satputee: and the witness, Obhychurn, pleader, has distinctly stated without its being denied, that prisoner, No. 7, was for some time the constituted pleader of Bhurut, and received a monthly salary; and was dismissed on losing the confidence of his client. These facts would have gone far as motives to implicate Bhurutchurn, and Obhychurn, the pleader (who succeeded him in the employ of Bhurutchurn) in the calumny of bribing the principal sudder ameen, had the evidence on which the charge was founded been trustworthy. As it is, the charge must be declared not proven: and the prisoners acquitted, and released.

Mr. J. H. Patton.—I entirely concur in the acquittal of the prisoners. There is to my mind no evidence at all against the prisoner, No. 8, and that against the prisoner, No. 7, is of so suspicious a character, that I cannot place the slightest reliance upon it. Whether or not the law intended such defamation of character, as that involved in the present trial, to be made the subject of a criminal prosecution, I am not called upon here to state; but I must confess that I highly approve of the maxim that "defamation is a crime only when it is committed by writing, printing, engraving or some similar proces:" and that "words reflecting on private character, however atrocious" the imputation they convey and however publicly spoken, "furnish ground only for a civil action."

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

KEBUL SINGH

versus

RUGHOO SINGH CHOWKEEDAR.

Tipperah.

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Case of RUGHOO SINGH CHOWKEEDAR.

The prisoner's appeal was rejected on proof of his guilt.

CRIME CHARGED.—1st count, burglary at the house of the prosecutor's employer, and stealing therefrom property belonging to the prosecutor's employer to the value of rupees forty-one and four annas; 2nd count, receiving and retaining in his possession property, valued at 35 Rs. obtained by the above burglary, knowing it to have been such.

CRIME ESTABLISHED.—Receiving and retaining in his possession property, valued at 35 Rs. obtained by burglary, knowing the same to be stolen.

Committing Officer.—Moulovee Gholam Yahiah, law officer, with full powers of a magistrate at Tipperah.

Tried before Mr. E. Radcliffe, officiating sessions judge of Tipperah, on the 20th June, 1855.

Remarks by the officiating sessions judge.—This being a case of burglary, under aggravating circumstances, and committed by the law officer with full powers of a magistrate, was tried with the assistance of a jury of two pleaders of the court.

The prosecutor stated that his master, Juggutchunder's property, consisting of a pair of shawls, a box, in which was some 8 Rs. or 10 Rs. and a *dhotee*, was stolen on the night of the 17th Poush, that the burglarious entry was effected by cutting a hole on the western wall, but no one was then suspected. The police was informed of the circumstance and his master's suspicions from other sources being excited against the prisoner, he was sent for and directed to obtain a clue, which he said he would do, and returned with the property in his possession accompanied by Shubul Singh, witness No. 1, and Kishen Singh, witness No. 2, declaring he had found the shawls in an empty house, formerly inhabited by one Rohomut.

The prisoner pleads *not guilty;* declares he and the two witnesses found the shawls; that Noelchand Roy, a relative of prosecutor's master, wanted him to give evidence in an affray case, and on his refusal, this case has been trumped up; that he was at Mohun Chowkeedar's on the night in question; admits that he had been imprisoned once for burglary, and once for inability to find security for good behaviour, but was released on appeal.

In the foujdary, he endeavours to throw the blame on witnesses Nos. 1 and 2, but admits being directed by Bhurut to produce

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the shawl, which he did. He was unwilling to call the evidence for defence.

Witness No. 5, Alum, No. 6, Dangoo, state that the prisoner, the chowkeedar of Pansorta, on the evening of the robbery, asked where Juggutchunder lived, and Mahomed Bakur, witness No. 8, swears that he met the prisoner on the road to prosecutor's village, and enquired the way to Company Gunge.

Witness No. 11, Amira, Juggutchunder's servant, deposes that on prisoner being sent for, his master told him that as he suspected him of the robbery, it was necessary he should produce the property; two or three days subsequent, prisoner returned, saying he had obtained a clue, when his master sent several men with him to assist; that a day or two after this, witness met prisoner, who said he had found the shawls.

Witness No. 13, Mooza Gazy, No. 14, Juggur Mohamed, prove Rohomut's house to have been empty more than a fortnight prior to the robbery.

Witness No. 1, Shubul, No. 2, Kishen, depose to their master directing them to accompany prisoner to search for the stolen property; that one day prisoner informed No. 1, that a clue had been obtained; that they both went with him to Rohomut's empty house, when prisoner entered and they remained outside; that after removing some earth from under a *machan* at the back of the house, prisoner produced the shawl, which they at once, together with the prisoner, took to their master.

The jury convicts the prisoner on both counts, but in my opinion the 2nd is the only one proved; I therefore, under the circumstances of his being a village chowkeedar, and his previous conviction for burglary, sentence him to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) I see no reason for interference with the conviction and sentence in this case. The prisoner, who is an old offender, produced the property from a deserted house, where it is plain he must have placed it himself, and he declined to have his witnesses examined.

PRESENT:

B. J. COLVIN, Esq. *Judge.*

GOVERNMENT

versus

MUSST. RAJOO BEBEE (No. 2.) JEEBUN (No. 3,) AND MUSST. SYAH BEBEE (No. 4.)

Tipperah.

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Case of MUSST. RAJOO BEBEE and others.

The prisoners were convicted of perjury.

CRIME CHARGED.—No. 2, perjury, in having on the 11th August, 1854, intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before the deputy magistrate of Sundeep, in the jurisdiction of the Noacolly magistracy, exercising the powers of a magistrate, that Ashuck Manjhee, defendant, had kicked Reshum Bebee on the side and bosom, and that the woman had then and there died from that violence, and that she saw the defendant suspend the body to a mangoe tree by a rope fastened to the neck of the corpse; and in having on the 20th February, 1855, again intentionally and deliberately deposed, under a solemn affirmation taken instead of an oath, before the sessions judge of Tipperah, that she did not see her father, Ashuck Manjhee, beat her mother, Reshum Bebee, or see her die, and that she heard that the deceased had hung herself on a mangoe tree, and that she had given false evidence in the foujdary court on account of the oppression of the police; such statements being contradictory of each other on a point material to the issue of the case. Nos. 3 and 4, perjury, in having, Jeebun, on the 12th August, and Syah Bebee, on the 15th August, 1854, respectively, intentionally and deliberately deposed, under solemn declarations, taken instead of oaths before the deputy magistrate of Sundeep in the jurisdiction of the magistracy of Noacolly, exercising the powers of a magistrate, that on the evening of the day of the occurrence, they heard Reshum Bebee crying from pain, and Ashuck Manjhee abusing her, and her daughter crying at night, and that they heard from that daughter that Ashuck Manjhee had kicked and killed the said woman, and had hung her body on a tree, and in that both defendants, on 20th February, 1855, again intentionally and deliberately deposed, under solemn affirmations taken instead of oaths, before the sessions judge of Tipperah, that Reshum Bebee had suffered from attacks of illness for ten or twelve years, and not being able to obtain relief had killed herself by hanging with a rope round her neck, and that they had not heard from the daughter that Ashuck had abused her or suspended her to a tree; such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Wilful perjury.

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Committing Officer.—Mr. F. B. Simson, officiating joint-magistrate of Noacolly.

Tried before Mr E. Radcliffe, officiating sessions judge of Tipperah, on the 2nd July, 1855.

Remarks by the officiating sessions judge.—This is a case of perjury, the abstract charge of which sufficiently explains the nature of the offence, the prisoners were committed on the 20th February last, to the joint-magistrate by my predecessor, in consequence of the perjuries discovered during the trial of Ashuck Manjhee and Rushmutoollah Hajee, for murder of Reshum Bebee.

The prisoners plead guilty In evidence, it appears that Gourmohun Biswas, witness No 3. wrote the deposition of prisoner No 2, Musst Rajoo Bebee, on the 11th, of prisoner No. 3, Jeebun, on the 12th, and of prisoner No 4, Syah Bebee, on the 15th August, 1854, after solemn affirmation, under Act V. of 1840, in the presence of the deputy magistrate of Sundeep, and that Sheikh Jomut Alli and Mahomed Khuleel, witnesses Nos 3 and 4, depose to having heard the evidence of Rajoo Bebee, prisoner No 2, delivered before them

The prisoners deposed to the contradictory statements before the sessions judge in the presence of Bukutoollah and Tumeezooddy, witnesses, Nos 7, and 2, and confessed to the perjury in the foujdary court before witnesses Nos 1 and 2.

The prisoners declare that they were compelled to give evidence before the deputy magistrate by ill-treatment and threats on the part of the police, but this subject they never brought to the notice of the deputy magistrate The evidence for the defence, Boseer Manjhee, witness No 8, did not see any ill-treatment offered, and Khuleel, No. 12, merely heard of the same from Jeebun, prisoner No 3.

The perjury being palpable, and the prisoners in the murder case released through the prisoners' false evidence vide Mr. Metcalfe's remarks, statement No 8, on trial No. 4, for February, 1855, I have, in concurrence with the law officer, sentenced Jeebun, No 3, to three years' imprisonment, with labor in irons, and Rajoo Bebee, No 2, and Syah Bebee, No. 4, to the same term with labor suitable to their sex.

Remarks by the Nizamut Adawlut—(Present: Mr. B. J. Colvin.) The prisoners, in their petition of appeal, acknowledge having given contradictory evidence, but allege that their first depositions were given in consequence of the oppression of the police, but this is not proved. I reject their appeal.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges*.

GOVERNMENT AND MONOMAHARAH

versus

BIDDIANATH (No. 3, APPELLANT,) MUSST. SOODURREE ALIAS LOTOKEE (No. 4,) SINGUL MAHARA (No. 5,) AND BISHAN MAHARA (No. 6.)*

Sylhet.

1855.

September 26.

Case of BIDDIANATH and others.

Conviction and sentence passed by the sessions judge in a case of culpable homicide, upheld in appeal.

CRIME CHARGED.—1st count, Nos. 3 and 4, culpable homicide of Musst. Aree, by administering medicine to procure abortion; 2nd count, No. 5, being an accomplice in the above crime, and 3rd count, prisoner No. 6, being an accessary before and after the facts of the crime charged in the 1st count.

CRIME ESTABLISHED.—Nos. 3 and 4, culpable homicide, No. 5, being an accomplice thereon.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 29th May, 1855.

Remarks by the sessions judge.—The deceased was the sister-in-law of Singul Mahara and Bishan Mahara, and died from the effect of drugs administered to procure abortion.

The prisoners, before the darogah and magistrate, make admissions, criminating themselves, yet throwing the blame one upon the other.

Biddianath, before the darogah and magistrate, says he was called in by the prisoner Lotokee, and saw medicine to procure abortion given by her to the deceased.

Lotokee says that the deceased gave Biddianath money to procure drugs for her; that he produced the drug and she, Lotokee, pounded it for him, and returned it when he administered it to the deceased, Singul being present. Before my court, also, she made the same admission, merely saying in extenuation that she ground up the medicine at the earnest request of Biddianath.

Singul Mahara admitted that he had taken the deceased to Lotokee's house, she being with child by his brother, Bishan.

Two witnesses, Musst. Opurba and Koshaleah, depose to having seen Biddianath give a drug to Lotokee to grind, which she returned to him after grinding, and which he administered to the deceased, the prisoner Singul being by and aiding, by rubbing her neck.

* Acquitted by the Lower Court.

1855. September 26. Case of BIDDIANATH and others.

The evidence of these two witnesses would be scarcely worthy of credit, were it not that their presence is admitted by the prisoners, Biddianath and Lotokee

Singul Mahara called witnesses before my court, to prove an *alibi*, but they denied all knowledge of his whereabouts.

The deposition of the native doctor proves the death of the deceased to have been caused by the administration of some noxious medicine

The assessor find the prisoners guilty and I concur in their verdict

Sentence passed by the lower court—Each to be imprisoned without irons for four years and to pay a fine of Rs 25, on or before the 7th June 1855, or in default of payment to labor (No 4, as suited to her sex) until the fine be paid or the term of their sentence expire

Remarks by the Nizamut Adawlut – (Present Sir R Barlow, Bart and Mr H T Raikes) The Court see no reason to interfere with the sessions judge's order regarding Biddianath who has now appealed

PRESENT

SIR R BARLOW, BART, AND B J COLVIN, ESQ, *Judges.*

MAHOMED SABER

Tipperah.

versus

1855

SHOOLTAN (No 8,) AND CHAMOO CHOWDREE, (No. 9)

September 26. Case of SHOOLTAN and another

The prisoners, subsequently apprehended, were convicted and sentenced as their associates had previously been

CRIME CHARGED 1st count, riotously assembling in an armed body, assaulting and wounding Manullah and Baharam, attacking the prosecutor's house and plundering therefrom property belonging to him to the value of Co's Rs 463; 2nd count, riotously assembling in an armed body and fraudulently distraining the property of the prosecutor under Regulation V. of 1812, with intent to plunder the same

CRIME ESTABLISHED —Riotously attacking the house of the prosecutor, Mahomed Saber, wounding Manullah and Baharam and plundering him of his property

Committing Officer —Mr A J Jackson, officiating magistrate of Tipperah

Tried before Mr H C Metcalfe, sessions judge of Tipperah, on the 24th March, 1855

Remarks by the sessions judge.—This case is supplemental to one (No 10,) reported in my predecessor's abstract of prisoners punished without reference to the superior court in June last The prisoners were charged with forming part of a body of

men, who attacked the prosecutor's house, plundered it of property valued at Rs. 463, and assaulted and wounded two individuals, under the following circumstances. The prosecutor resides in mouzah Hajeepore of which he is a one-anna proprietor.

1855.

September 26.

Case of SHOOLTAN and another.

It seems that about 7 o'clock on the morning of the 23rd of November last, the prisoners in a body of about eighty or ninety persons, variously armed with spears, clubs, swords and shields, &c. attacked the prosecutor's house, uttering cries of "Ali, Ali," "*mar, mar.*" The prosecutor, at the first alarm of their approach, hastily removed his women to preserve them from insult, and himself ran toward a neighbouring jungle where he hid himself. The prisoners entered the women's apartment and carried off from thence property amounting altogether (with the ready money) to Rs. 463. The boxes and chest, in which most of the property had been contained were carried off entire, none being broken open at the time of the attack. Some of the neighbours came up at the time and endeavoured to stop the prisoners' proceedings, crying out for help, when one of the prisoners named Amood Ali *alias* Amoody Pak, wounded one of those who came to the scene, called Baharam, (witness No. 6,) in the arm with a spear. Another of the neighbours named Manullah, (witness No. 5,) received a blow on the left arm with a *lattee* inflicted by a man called Shooltan, (not present.) The prisoners then assaulted and drove off the other persons who had come up on hearing the disturbance. The rioters then carried off the property plundered, proceeding in a westerly direction towards mouzah Jassatooah, where Adoo Milkee, the brother-in-law of Abdoorruheem resides. They deposited the property there in the house of a man, named Dil Mahomed. The village is situated about eight miles distant from that where prosecutor lives. The prosecutor, it appears, has for some time past had a dispute with the prisoner, Abdoorruheem, who had wished him to sell to his brother-in-law, Golam Ali, a one-half anna share of the property belonging to the prosecutor, but which the latter refused to consent to. It appears that subsequent to the riot, Golam Ali tried to accommodate the case with the proprietor and hush up the matter by offering to restore to him all of the property plundered, which he had with himself. This arrangement, the prosecutor refused to listen to, as he would be content with nothing less than the recovery of all that had been plundered of.

The prisoners, who pleaded *not guilty*, stated that they were at their own houses when the disturbance took place. The prisoner, Shooltan, (No. 8,) declined having his witnesses examined, and the three subpœnaed by the prisoner, Chamoo, entirely failed to establish his plea in opposition to his clear inculpation by the prisoner and witnesses as one of the rioters.

1855.

September 26.

Case of SHOOLTAN and another.

Both of these prisoners were named before the magistrate, again before the sessions court, when the first commitment was tried, and were satisfactorily identified on the present occasion. The assessors, with whose assistance I tried the case, found the prisoners, Shooltan and Chamoo, guilty and concurring in the verdict, I sentenced them as follows.

Sentence passed by the lower court.—Each to five years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B J. Colvin.) We see no reason to interfere with this conviction. There is the same proof against the prisoners as against those convicted on 23rd November last.

PRESENT:

A. DICK AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND OTHERS

versus

PRAN KISHEN SINGH BURKUNDAZ (No. 1,) SHEIK BEISHYE, (No. 2,) ZAMMEEROODDEEN, (No. 3.)

Dacca.

1855

September 27.

Case of PRANKISHEN SINGH BURKUNDAZ and others.

One prisoner convicted and two released, the evidence against the latter not being satisfactory.

CRIME CHARGED.—Nos. 1, 2 and 3, 1st count, stealing, by breaking open the *tattee* of the guard house of thannah Bhoosna, property belonging to the mohurrir and burkundaz, prosecutors, valued at Co.'s Rs. 519-11-5; 2d count, being accomplices to the same Nos. 1 and 2; 3rd count, receiving and possessing portions of the property, knowing them to have been stolen.

Committing Officer.—Mr. C. Mackay, principal sudder ameen of Furreedpore, exercising the powers of a magistrate.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 11th July, 1855.

Remarks by the sessions judge.—The prisoner No. 1, Pran Kishen Singh, was alone in charge of the thannah of Bhoosna; the darogah and other officers being absent on duty. At night on the 23d December, the hut of the burkundazes was entered, and property to a considerable amount stolen. The next day, Suleemooddeen chowkedar, gave information to the darogah, but little seems, by the police report, to have been done for several days, when the three prisoners were apprehended, and property to some amount recovered.

1855.

September 27.

Case of PRANKISHEN SINGH BURKUNDAZ and others.

The prisoners confessed probably at the thannah and before the magistrate. In this court, they pleaded *not guilty*, Nos. 2 and 3, called witnesses to character.

The law officer convicted the three prisoners No. 1, on the 3d count, and the others on the 2d count, of complicity.

I do not agree in this finding, as I consider little confidence can be placed on the confessions of the prisoners. The crime was committed on the 23d December, and according to the evidence of Dhyan Singh, prosecutor, and Suleemooddeen* (witness No. 16,) the prisoners were at once apprehended and nothing being found against them, they were released. About ten days after, from the 2d to the 6th January, the prisoners were again apprehended, when they all three are said to have confessed at once.

* No. 16, Suleemooddeen

Against the prisoner, Pran Kishen Singh, No. 1, there is however other evidence. He was alone at the thannah and gave no information of the robbery.

Suleemooddeen,* witness No. 16, had called at the thannah in the night, and not been allowed to enter, and he, it was, who first discovered the robbery, and gave that information to the police, which ought to have been given by the prisoner. Dhyan Singh, one of the prosecutors, states how he induced the prisoner to point out where he had concealed the property stolen, when it was produced, in the presence of several witnesses The prisoner's defence in this court is contradictory, and he refused to call witnesses, though his illness since Kartick, if a fact, could have easily been proved. The amount of 81 Rs produced by the prisoner No. 1, seems too large a sum to have been hidden merely for the purpose of implicating him. The theft undoubtedly was committed, and there does not seem to have been any particular desire to injure the prisoner Pran Kishen Singh.

* No. 16, Suleemooddeen

Besides his confession, the proof against Sheikh Beishye, prisoner No. 2, consists of the production of a *hookah* by him, but the owner of this *hookah* is dead, and besides, it is an article in ordinary use and of trifling value. The *hookah* was not the only portion of the property the prisoner received, if he received any, and the inducement to produce it, would have induced him to produce more. I do not think the evidence sufficient, or even the proof of ownership of the *hookah* itself.

Against Zameeroddeen, prisoner No. 3, there is nothing but his confession, which for reasons I have already stated, I think, insufficient for conviction.

I would convict, Pran Kishen Singh burkundaz, prisoner No. 1, on the 2nd and 3rd counts, and condemn him (he being a police officer) to seven years' imprisonment with labor and in irons,

1855. September 27. Case of PRANKISHEN SINGH BURKUNDAZ and others

and two years in lieu of corporal punishment, in all nine years, with a fine to the value of the property stolen, and acquit the prisoners, Nos. 2 and 3.

The court will observe, that a part of the property stolen was money paid in by a defaulter, and that the deposition of Gour Kisore Chatterjea, Mohurrir, discloses some irregular practices of the police of Bhoosna, in regard to the collection of rents from defaulting ryuts. I have sent a copy of the deposition to the commissioner, for such orders as may appear requisite.

Remarks by the Nizamut Adawlut.- (Present: Messrs. A. Dick and J. H. Patton.) We concur with the sessions judge in convicting the prisoner No. 1, and acquitting the prisoners, Nos. 2 and 3. The evidence against the former is conclusive. He confessed crime before the police and the magistrate, produced 81 Rs. contained in a bag, recognised by the prosecutor, Dhyan Singh, from a stack of straw, was the only policeman at the thannah in charge of the guard room, when it was broken into; and neglected altogether to report the circumstance. The proofs against the prisoner, No. 2, are his mofussil and foujdary confessions, and the production by him of a *goorgoori hookah*, concealed under some mud: but there appears reason on the record to distrust the truth of the prisoner's confessions; and neither is the identity of the *goorgoori* satisfactorily established, nor was it inserted in the first list of the stolen property, filed by the prosecutors. The only evidence against the prisoner No. 3, are his confessions; and this proof is by no means unexceptionable, as we have above remarked.

PRESENT:

SIR R. BARLOW, BART. AND H. T. RAIKES, ESQ., *Judges*.

GOVERNMENT AND RUNJEET LALL

versus

PEERUN (No. 1,) PANCHOO (No. 2, APPELLANT,) MUNGLEE KHAN, (No. 3,) AND HEERA ZURGUR (No. 4.)

Bhaugulpore.

1855.

September 27.

Case of PANCHOO and others.

Conviction and sentence passed by the sessions judge on a charge of burglary and theft, upheld in appeal.

CRIME CHARGED.—No. 1, burglary and theft of property, valued at Rs. 1081-6, belonging to Moulvee Imdad Ali. Nos. 2, and 3, 1st count, burglary and theft of property to the above value; 2d count, receiving and possessing stolen property, knowing at the time of receiving it that it had been obtained by burglary and theft, and No. 4, knowingly receiving and possessing stolen property, knowing at the time of receiving it that it had been obtained by burglary and theft.

CRIME ESTABLISHED.—No. 1, burglary and theft of property valued at Rs. 1081-6 belonging to Imdad Ali. Nos. 2 and 3, receiving and possessing stolen property, knowing at the time of receiving it that it had been obtained by burglary and theft, and No. 4, knowingly receiving and possessing stolen property, knowing at the tome of receiving it that it had been obtained by burglary and theft.

Committing Officer.—Mr. R. O. Heywood, magistrate of Bhaugulpore.

Tried before Mr. William Bell, officiating sessions judge of Bhaugulpore, on the 21st March, 1855.

Remarks by the officiating sessions judge.—This was a heavy case of burglary committed in Bhaugulpore, close to the sudder thannah, on the 31st of January last, property valued at Rs. 1081-6 was stolen and 150 Rs. recovered, but as it appears from the confessions, the booty was quickly divided and no one was arrested for three days; it is fortunate even so much was recovered.

The person robbed was the sudder ameen of Arrah, and the prosecutor is his servant, who states that early in the morning, his mistress discovered the burglary and her loss, and immediate notice was given at the thannah,. stating that he suspected Peerun (prisoner No. 1,) and others, and that their houses were unsuccessfully searched, neither they nor the property being forthcoming. Three days after, Mahomed Jaha, a dependant of his, caught Peerun and made him over to the darogah, when he confessed, implicating the others; they were arrested; No. 2, confessed and produced the property; No. 3 denied, but an ornament was found which was identified.

1855.

September 27.

Case of PANCHOO and others.

The witnesses (Nos. 1, 9, 22 and 23,) identified the property produced; Nos. 2, 3, 4, 5, 6, 7, 8, 19, 20 and 21, prove its production by prisoners Nos. 2, 3 and 4.

Witnesses Nos. 10, 11 and 12, prove the voluntary confession of prisoner No. 1, before the darogah, and Nos. 14, 15, 16 and 17, that before the Moulvee, the magistrate being absent in the mofussil.

Witnesses Nos. 2, 3, 4 and 5, the voluntary confession of No. 2, prisoner, before the darogah and Nos. 14, 15 and 18, that before the Moulvee.

The prisoners all plead *not guilty*.

No. 1, *Peerun*, declares the darogah beat him and compelled him to confess, and that he was frightened into doing so before the Moulvee. His witnesses Nos. 24 and 25, speak to his respectability.

No. 2, *Panchoo*, simply denies the fact and the confessions, but attempts no defence.

No. 3, *Munglee Khan*, claims the ornament found and sworn to as the sudder ameen's property, he calls two witnesses, who deny all knowledge of the ornament, or his possessing one like it; it is not probable he would, considering his position in life.

No. 4, *Hera Zurgur*, states that the gold found melted in his possession was given him by No. 2, and he thought it possible it was the remains of former wealth; that he is in the habit of receiving gold under such circumstances without witnesses, and he brings three witnesses, brother craftsmen, who state that he is respectable and that they do *from responsible persons* receive gold to work up without witnesses. But Panchoo (No. 2,) was before convicted of burglary and can hardly pass muster as a responsible party, besides before the darogah the prisoner clearly stated he received the gold before three witnesses and that the gold was buried under a *nad* for security sake.

The jury returned a verdict of guilty against all, and I agree and sentence accordingly.

Prisoner, No. 2, punished before for burglary, and prisoner, No. 3, for theft.

Sentence passed by the lower court.—No. 1, to five years, Nos. 2 and 3, each to seven years, and No. 4, to three years' imprisonment, all with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) We see no reason to interfere with the sentence.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES ESQ., *Judges.*

GOVERNMENT AND LAKHAROY

versus

BHOLLAH RUJWAR (No. 2,) MOHUN RAJWAR (No. 3,) POKHUR RUJWAR (No. 4,) AND PANCHOO RUJWAR (No. 5.)

1855.

September 27.

Case of BHOLLAH RUJWAR and others.

The prisoners, three of whom were old bad characters, were convicted of highway robbery and sentenced to fourteen years' imprisonment.

CRIME CHARGED.—Highway robbery and plunder of property valued at Rs. 25-15.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. A. G. Wilson, deputy magistrate of Nowada, with magistrate's powers.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 11th June, 1855.

Remarks by the sessions judge.—The prosecutor is a Burraiyl of Dhurrowund and had been deputed to Humza Barut by his employer to collect some arrears of rent due by Hoolas Pandeh, which amounting to Rs. 25 he duly received from his son, Doobree Pandeh, who confirmed the same before the deputy magistrate, No. 23, 22nd May 1855. Returning homewards on reaching the boundaries of Sheirpore and Dhurrowund towards evening, he was attacked by the four prisoners and another, absconded; who plundered him of the money and all his clothes, except his *dhootee.* He recognized them at the time as also did the witnesses who ran up on hearing the prosecutor's outcries, saw the prisoner running off, and found the prosecutor stripped of his clothes and robbed of his money as he told them at the time.

Witness No. 1 Naram Gowalla.
,, ,, 3 Gendah Gowalla
,, ,, 4 Tilluck Gowalla.

The prosecutor suspects he must have been watched on the errand on which he was employed, as seems most probable from the character of the prisoner, and one of them, Pokhur (No. 4,) being a resident of Humza Barut, whilst the others are of Sheirpore.

The prisoners originally set up no defence which Bhollah (prisoner No. 2,) continued before this court, where the other three however urge frivolous pretences which in the case of Mohun Singh (prisoner No. 3,) are self-contradictory, and got up to conceal marks of two fair blows on his right hand struck by the prosecutor whilst struggling with him. They cited no witnesses and it turns out that they are a band of thieves, who have robbed together before. Panchoo (prisoner No. 5,) is Mohun (prisoner No. 3's) brother and their father Loomeyree as well as Mohun and Bhollah were imprisoned together in a theft case in 1850.

1855. September 27. Case of BHOLLAH RUJWAR and others.

Exclusive of this, Bhollah in 1847 was imprisoned seven years in a case of highway robbery and Pokhur Singh five years in a case of dacoity.

Wuzeer Ally of Gillaumee Behar
Eyad Ally of Rujput ditto
Mohurlall of Kagur ditto
Pirtun Sow of Nowabadee ditto

The jury unanimously convict the prisoners of the highway robbery.

It is a plain case, free of all doubts even on the prisoners' own shewing, and therefore concurring in the verdict, I have sentenced the three first prisoners as follows, as incorrigible offenders, under Section 2, Regulation XII. of 1818. The fourth, Panchoo, is a young man, though as aforeshewn, of a bad family. Besides the tribe of Rujwars are a pest to the part of the country in which they reside and highway robbery is one of their favorite crimes.

Sentence passed by the lower court.—Nos. 2, 3 and 4, for fourteen years with labor and irons in banishment, and No. 5, for five years with labor and irons, all from 11th June, 1855.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The case was called for on review of statement, No 6, in consequence of the sessions judge having sentenced the prisoners under a law inapplicable to it and his having exceeded his powers *

The circumstances narrated by the sessions judge, in the column of remarks, and the evidence on the record fully establish the guilt of the prisoners; Nos. 2, 3 and 4, are evidently bad characters and have all, at former periods, been convicted severally of theft, highway robbery and dacoity. We sentence them to fourteen years' imprisonment with labor and irons in banishment. The prisoner, No. 5, is brother of No. 3, and was recognized by the witnesses in company with the others, when the prosecutor was attacked and robbed by them. We confirm the sentence passed on all the prisoners.

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* Extract (paragraph 2) from a letter from the register of the Nizamut Adawlut to the sessions judge of Behar No. 662, dated the 28th July, 1855.

"The Court request that you will submit, for their inspection, in original, the proceedings connected with the commitment and trial of Bhollah Rujwar and others, Nos. 2 to 5, of statement No. 6, and at the same time explain the grounds on which you justify the application of Section 2, of Regulation XII of 1818, which refers to burglary, &c. to the present case, which is one of highway robbery."

Extract (paragraph 2) from a letter from the sessions judge of Behar to the register of the Nizamut Adawlut No. 168, dated the 8th August, 1855.

"Relative to the case of Bhollah Rujwar and others, paragraph 2nd, I regret to observe I have misapplied the Regulation. The record will be separately submitted as directed."

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND JHOOPROO DHOBEE

versus

SEETA TUTEREE.

Bhaugulpore.

1855.

September 27.

Case of SEETA TUTEREE.

Prisoner convicted of burglary and sentenced, as an old offender, to five years' imprisonment. Appeal rejected.

CRIME CHARGED.—1st count, burglary and theft of property, valued at Rs. 1-10, belonging to plaintiff; 2nd count, receiving and possessing stolen property knowing at the time of receiving it that it had been obtained by burglary and theft.

CRIME ESTABLISHED.—Burglary and theft of property, valued at Rs. 1-10, belonging to Jhooproo Dhobee, plaintiff.

Committing Officer.—Mr. R. O. Heywood, magistrate of Bhaugulpore.

Tried before Mr. W. Bell, officiating sessions judge of Bhaugulpore, on the 22nd March, 1855.

Remarks by the officiating sessions judge.—From the deposition of the prosecutor and witnesses, it is clearly established that at 12 o'clock one night, the prisoner was seized in the act of coming out of a hole in the prosecutor's wall with property fully recognized as prosecutor's, valued at Rs. 1-10. The prisoner denies, but calls no witness and attempts no valid defence beyond a rigmarole story; he is an old offender, having been punished once before for burglary, and twice imprisoned in default of required security. The jury convict, and I agree and sentence as follows.

Sentence passed by the lower court.—Five years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) The prisoner was caught in the act, he cites no witnesses in his defence and his answers are conflicting and unsatisfactory.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND SHAMSOONDUR CANOONGOE

versus

JULDHUR DOSS (No. 1.) DYE DOSS (No. 2,) BALLA DOSS (No. 3,) AND GOORBAREE BHOEE (No. 4.)

Cuttack.

1855.

September 27.

Case of JULDHUR and others.

Evidence for the prosecution unsatisfactory, prisoners acquitted, in concurrence with the sessions judge.

CRIME CHARGED.—1st count, burglary and with burglariously stealing from the house of prosecutor, ornaments and cash, valued at Rs. 254; 2nd count, Nos. 1 and 2, with having the said stolen property in their possession, knowing that it had been stolen.

Committing Officer.—Mr. W. J. Longmore, joint-magistrate, central division, Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 7th July, 1855.

Remarks by the sessions judge.—The following are the reasons assigned by the joint-magistrate for committing the prisoners for trial before this court.

"On the night of the 19th of May last, some theves burglariously entered the house of Shamsoondur Canoongoe (prosecutor) and stole gold and silver ornaments and money to the value of Rs. 254, prosecutor reported the burglary at thannah Teerun and suspected the prisoners of having committed the burglary. They were apprehended, and on searching the house of prisoner No. 1, (who pleads *not guilty*) property Nos. 1 to 5, was found; prisoner No. 2, produced property No. 6. The value of the property recovered is Rs. 75-14. Prisoners Nos. 2, 3 and 4, confessed both in the mofussil and foujdary.

"From the evidence of the witnesses for the prosecution, the charges, noted in the calendar, having been proved against the prisoners, and prisoner No. 1, having been before convicted of burglary in a case in which Hoorsee Bab Singh was plaintiff and sentenced by the sessions judge to four years' imprisonment with labor and irons, on the 11th of February, 1847. The prisoners were committed to take their trial at the sessions on the 16th of June, 1855, corresponding with 4th of Assar, 1262, U."

The above appears to be a correct statement of the facts of the case, with the exception of that which relates to apprehension of the prisoners, who were not apprehended on the suspicion of the prosecutor, but on information alleged to have been communicated to the police darogah, on the ninth day after the occurrence, by Mokoond Mullick of mouzah Juryool, distant one and a half or two miles from the prosecutor's village, who stated that on the evening of the theft, he saw Juldhur Doss, Choytun

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Doss and Mudhoo Samul, with two or three others whom he did not know, sitting together in the Joygaon bheel, as he was returning home in the evening from his field; but this said Mudhoo Mullick was *not produced* either in the foujdary or sessions court to give evidence. And after this information was received, plaintiff is represented to have suspected the prisoners.

The prosecutor deposes to the theft, but he positively denied before the foujdary court, that the *khirkee* door of his house was broke open or pulled or dug out by the thieves, and stated that they entered the house by getting over a half-finished wall, and carried off the property by the same way they entered; though as Balla Doss, prisoner No. 3, stated they took away the property by the *khirkee* door, they *might* have taken some of the small articles through the *jhuroka* or small door or opening in the centre of the *khirkee*. And before this court, on being questioned regarding Balla Doss, stating that they pulled out the *khirkee* door, he in a confused manner stated that they broke the net or trellis work of the *khirkee*, and took the property through it.

Moreover, there were no witnesses adduced to prove the fact of the theft, except Kunnye Bhoee, witness No. 10, a neighbour of the prosecutor's, who deposed that he heard of the theft the following day from the prosecutor, but did not go into the house, and Nurrain Barrick, witness No. 10, who lives two *coss* distant from the prosecutor, and did not hear of the theft until eight days after it occurred ! ! though other persons are said to have been sleeping in the house on the night of the occurrence, who must have been aware of the theft, if it took place. The said two witnesses were also the only ones adduced to identify the prosecutor's property.

The rest of the evidence consists of the witnesses to the mofussil and foujdary confessions of the prisoners Nos. 2, 3 and 4, and to the finding of the property marked, Nos. 1 to 5, in the house of Juldhur Doss, prisoner No. 1, and that marked No. 6, in the bed of the river, whence it is said to have been produced by the prisoner No. 2, and the said witnesses deposed according to what they had been called on to hear or witness, whether they were aware or not, that tricks had been resorted to, to procure either the confessions or the property. But it is perfectly clear from the statement of the prosecutor and the evidence of Juggo Singh and Domah Meeya, witnesses Nos. 1 and 2, both police burkundazes, that the police darogah surrounded the house of Juldhur Doss, prisoner No. 1, on the night of the 27th, searched it at day-break the following morning and found nothing. It is asserted that the darogah did not conclude the search in the morning, because he was told by a lad of twelve years of age, the nephew of Juldhur Doss, who likewise was neither produced before the foujdary or this court, that the pro-

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perty had been removed during the night to the house of Mudhoo Doss, the brother of Juldhur Doss, and that on receiving the said information, he deputed the prosecutor and burkundazes to the house of Mudhoo Doss to fetch the said Mudhoo Doss, but this I conclude is a mere excuse, for it does not appear from any credible testimony that Mudhoo Doss's house was searched. And at about 3 P. M., the house of Juldhur Doss was again searched, when a silver bracelet, one of a pair, is said to have been found in the middle of a bundle of twine (made from the fibres or root of some jungle plant) which was suspended from the chopper of the house; and the fellow to it, is said to have fallen from the chopper itself, as the grass was being removed during the search, and two *bazoo-bunds*, one *pâhor* and six *beng-pateahs*, were produced from amongst some earth, scraped up by rats under a *machan* inside the house, all of which were no doubt placed there by or in connivance with the police; for it is in the last degree improbable, that Juldhur Doss, who is alleged by his nephew, the lad above alluded to, to have removed the bulk of the property through fear of the police, should have placed one of a pair *of choorees* or bracelets in the bundle of twine, and the other in the chopper ! ! and the other articles merely in a little earth thrown up by rats, to say nothing about the house being twice searched Had the property been secreted by an old offender, as Juldhur Doss is said to be, he would not have been so foolish as to treble the chances of his being apprehended, by placing the property in three different places, all inside his own house.

Juldhur Doss, prisoner No. 1, pleaded *not guilty* throughout. Before this court, he stated that a false charge of theft had been trumped up by the prosecutor to defraud the mother of Purkhit Doss, his brother-in-law, of certain property which she had placed in his house to take care of for her, preparatory to the marriage of her son, and that the burkundazes beat him and ill-treated him to make him confess, &c.

Dye Doss, prisoner No. 2, stated before the police and joint-magistrate that he was taken by Juldhur Doss and others to the prosecutor's house, whence they stole the property, and placed it in Juldhur's house, but there are discrepancies in his two confessions, inasmuch that in the mofussil he stated that he received four annas (from whom is not ascertainable, the confession is so unintelligibly written,) and in the foujdary he said nothing about the said money. And in the mofussil, he stated that Juldhur Doss gave his brother, Mudhoo Doss, the *jurree* or *kangsa-glass* which the burkundaz got from him, on his, prisoner's pointing out the place where it was buried. And in the foujdary court, he, prisoner, said he found the said article near the *haut* or market, and produced it from the bed of the river, where he had buried it.

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Before this court, the said prisoner pleaded *not guilty*, and said he found the *jurree* near the Ghoradeeah *haut*. And on being called on for his defence, he stated that on Balla Doss pointing him out to the burkundaz and saying he went with him to commit the theft, he, after he was beat and bound and told to confess, falsely stated that he accompanied him, and pointed out the place in the *maidan*, saying Juldhur Doss threw the *mal* there, that no *mal* having been found there, he was taken to the darogah, who questioned him and he denied, but in the evening, the darogah's brother tutored him to name Juldhureah and he would release him, still he denied.

Balla Doss, prisoner No. 3, stated that he went with the other prisoners to rob the prosecutor's house, and that they broke open the *khirkee* door with a *sind kattee* and thence brought away the property; also that a *sind kattee* was found in his house, and he further stated before the police, that he got a small brass cup, used for keeping *sindoor* in, which he had placed with Narrain Geer, but the said Narrain Geer denied the fact of his placing any such article with him.

Before this court, the above prisoner pleaded *not guilty*, and stated that the prosecutor and the burkundazes, witnesses Nos. 1 and 2, beat him and told him to say he committed the theft, and they would give him Rs. 10, and procure his release. That on his denying, they beat him and took him before the darogah, and he again denied. After which he was taken to Juldhur's house, where he was told to dig a hole, and he dug one as deep as his knees, and at one *puhur* of day remaining, prosecutor brought the *chooree*s, *pâhor* and *bazoo*, which he, Doma Meeya burkundaz, witness No 2, gave to prisoner, and he placed the *bazoo* and *pâhor* in the hole he had dug and thence produced them. And that the said persons placed the *chooree*s in Juldhur's chopper and some other place and produced them from the said places.

Goorbaree Bhoee, prisoner No. 4, admitted that he went with Juldhur Doss, Balla Doss and two others, to commit the robbery, and before the police he stated that Juldhur Doss, the morning before the theft, came to his house and enquired where the prosecutor's property was located, but he made no mention of this circumstance before the joint-magistrate.

Before this court, this prisoner stated that he did not confess before the police, that four days after the theft, the darogah apprehended, bound and beat him and then released him. And after the lapse of eight days, Balla Doss and Juldhur Doss, were apprehended, when the darogah summoned him and the prosecutor, and told them to name the said Balla Doss and Juldhur Doss, and on his saying he had not seen them and could not accuse them, he placed him in a house and had him much

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beat; when the prosecutor told them not to beat him, that he would name every one, and he would get Rs. 5.

That the darogah then told him that although property had been found in Juldhur Doss's house, he would not confess, and told him to accuse him, nevertheless he did not do so, and he then brought Balla Doss, who told him what to say, but still he denied, and the darogah then falsely reported him to have confessed and *chulland* him.

The *futwa* of the law officer, which will be found with the record, convicts the prisoners on the grounds of the confessions of the prisoners Nos. 2, 3 and 4, and the finding of the stolen property, numbered 1 to 5, in the house of Juldhur Doss, and No. 6, at the pointing out of prisoner, No. 2, viz. the whole of the prisoners, of being accomplices in the theft in the prosecutor's house, and Juldhur Doss, No. 1, and Dye Doss No. 2, of having in their possession a portion of the stolen property, and declares them liable to punishment.

But from the above verdict, I dissent, because from the circumstances attending the search of Juldhur Doss's house and the particular places, whence the property is said to have been produced, there exists, in my mind, strong reasons to suspect that the property was thrown into his house, in collusion with the police, and that the other prisoners were inveigled to confess, to implicate Juldhur Doss, and the fact of such suspicion, regarding the finding of the property casts mistrust on the whole proceedings, independent of the circumstance of neither Mokoond Mullick nor the nephew of Juldhur Doss, who are said to have given trace of the thieves and the property, having been forwarded to the foujdary court to give evidence. Moreover, as the said Mokoond Mullick only named Juldhur Doss, Choytun Doss and Mudhoo Samul, as having been seen by him, and said he did not recognize the others who were with them, it is not manifest on what grounds the prisoners, Dye Doss, No. 2, Balla Doss No. 3, and Goorbaree Bhoee No. 4, were apprehended. Therefore, for these reasons, and likewise in consequence of the imperfect investigation of the case by the committing officer, and the fact of the occurrence of the theft not being satisfactorily established, I would acquit the prisoners and direct their release.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) It appears that the prosecutor declined to proceed with the case in the first instance, saying that should he afterwards obtain any clue to the thieves, or hear of the property stolen, he would proceed. The darogah though, he went to the spot the second day after the theft or burglary, gives no *sooruthal* or statement of what he saw of the premises being forcibly entered, and on this point the statement of the prosecutor and the alleged confessions of the accused differ.

There is, in fact, no ocular proof of the actual occurrence of the burglary. And the way in which the prisoners were suspected and apprehended does not satisfactorily appear. The manner of the search of the prisoner No. 1, Juldhur's house, and the finding of part of the plunder in it, are very suspicious and cannot be relied on.

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Concurring with the sessions judge, we acquit the prisoners and order their release.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND MUSST. HARREE

versus

KADIR SHAHA.

Cuttack. 1855. September 27. Case of KADIR SHAHA.

The prisoner was convicted of the wilful murder of one man, and of severely wounding, with intent to murder, two others.

After directing a further inquiry to be made as to the prisoner's sanity, the Court sentenced the prisoner capitally.

CRIME CHARGED.—1st count, wilful murder of Bhuggort Booee; 2nd count, severely wounding, Hoosein Shaha and Sufdar, with intent to murder them, on the 2nd April, 1855.

Committing Officer.—Mr. W. J. Longmore, joint-magistrate of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 7th May, 1855.

Remarks by the sessions judge.—The particulars of this case are as follows: At about noon, on the 22nd of Cheyt, being the day of the *poornumee* or full moon, corresponding with the 2nd April last, as is stated by the prosecutrix, Musst. Harree, the widow of the deceased, Bhuggort Booee, and the witnesses, the females of the prisoner's house, called out to their neighbours to come to their house to see what the prisoner, Kadir Shaha, was doing, when her husband, Bhuggort Booee, who had been engaged thatching a hut in the immediate vicinity of the prisoner's house and was passing by at the time, went into the house with certain other persons, and seeing broken *handees* and *pittarahs* lying about, and the prisoner in a state of excitement, enquired of him what was the matter, when the prisoner ran towards him and stabbed him with a knife in the breast. That on this, Bhuggort Booee, after recovering himself from the shock, pressed his cloth with his hand over his wound, and ran towards his own house, but fell down after proceeding a few paces, and thence crawled along the ground to the house of Bushtum Doss, witness No. 1, which was close at hand, and there died within about forty minutes after receiving the wound. And while the prosecutrix and witness No. 4, were engaged attending on the deceased, the prisoner, who had intermediately

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gone into the house in which his brother, Hoosein Shaha, witness No. 12, was sleeping with his son, Sufdar Shaha, and his daughter, a child of two years of age, and stabbed and wounded all three of them with his knife, ran out into the road in a state of nudity with a *pharsa* in his hand and cut down or hacked about some small trees between his own and deceased's house, after which he went into his own house, when Musst. Uppertee, his *poilee* closed the door and shut him in, and there he remained until the arrival of the police darogah in the evening.

The cause of this outrage appears, both from the admission of the prisoner, Kadir Shaha, himself before the police and the record of the case, to be that a quarrel existed between the prisoner and his brothers, Chukoo Shaha and Hoosein Shaha, about some land and the crop grown upon it, and that, on the prisoner's charging Chukoo Shaha and others with forcibly cutting the crop, the case was referred for investigation under Act IV. of 1840; and in those cases the deceased, Bhuggort Booee, gave evidence in behalf of the prisoner's brothers.

Witness No.	1,	Bushtum Doss.
,, ,,	2,	Panoo Doss.
,, ,,	3,	Kurreem Bux.
,, ,,	4,	Ugnee Doss.

Depose that, on hearing the females of the prisoner's family call out, they entered the house of the prisoner along with the deceased, Bhuggort Booee, to ascertain what was the matter, and saw the prisoner stab the deceased, and that, becoming alarmed, they absconded; that the prisoner afterwards sallied forth naked from his house and cut down some trees between his own and the deceased's house with a *pharsa*, after which he returned into his house, when his servant, Musst. Uppertee, pulled too the door and secured him; and that they afterwards heard and saw that he had wounded his brother, nephew and niece. These witnesses further depose that the prisoner had been suffering two or three days before from a complaint called by them *har phootee* (which, as far as I can understand, is a mere eruption or breaking out of small pustules on the skin, though literally translated, it signifies pustules of the bones) which disordered his mind. But they all admit that he never before evinced symptoms of aberration of mind.

Musst Keenee, witness No. 10, and Musst. Moheea No. 11, saw the prisoner go into the house or apartment, in which Hoosein Shaha and his children were with a knife in his hand, and afterwards heard that he had previously wounded Bhuggort Booee

Hoosein Shaha, witness No. 12, deposes to having been stabbed in the breast and stomach, while he was asleep, by the prisoner, likewise to his son and daughter, who were sleeping by his side, having also been wounded by him, and to his having subsequently heard that the prisoner had previously stabbed

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Bhuggort Booee. He further deposes to a quarrel having existed between the prisoner and himself and his other brother, Chukoo Shaha, and to the prisoner's having stabbed Bhuggort Booee, because he gave evidence in behalf of the said Chukoo Shaha and himself in the foujdary court. He likewise asserts that the prisoner was ill two days prior to the occurrence with *har phootee* which affected his mind, but that he had never previously suffered from aberration of mind.

Noor Mahomed Burkundaz, witness No. 5, deposes that he apprehended the prisoner, and that on his coming out of his house he was violent and attempted to effect his escape and was not quite in his right senses, he having been suffering from *har phootee;* but he never before saw the prisoner in a state approaching to insanity.

Unund Sutpustee, witness No. 7, and Bhugwan Nund No. 8, depose to the examination of the wounds on the deceased, Bhuggort Booee and Hoosein Shaha, and his children, and likewise to the mofussil confession of the prisoner, Kadir Shaha, which they state was made by him voluntarily when in the full exercise of his reason

Moyadhur Doss, witness No. 9, also deposes to the mofussil confession of the prisoner having been voluntarily made by him.

The following is the purport of the prisoner Kadir Shaha's mofussil confession, recorded on the 3rd April, being the day after he was apprehended.

"A previous quarrel having existed between me and Bhuggort Booee, on account of which I bore him enmity, and having again yesterday had an altercation with him, I, at noon, stabbed him in the breast with my knife, which is now in your (the darogah's) hand, and he died from the effects of the wound. I did not beat him with my fist under the *wao* tree, his wife falsely accuses me of having done so. And Hoosein Shaha and his son, Sufdar, with whom I previously had a quarrel about a house and land, also quarrelled with me yesterday, and I wounded them and likewise Hoosein's daughter with this knife. Bhuggort Booee was formerly *kooteah* ploughman to Chukoo Shaha, I don't know in whose employ he is at present. I have confessed of my own free will and what I have stated is true.

"And on being questioned by the darogah as to whether he was of sound mind? he replied, I am not always of sound mind. I don't know what I say and do. For five or six years I have been in this state. I killed Bhuggort Booee because I bore him enmity for giving evidence in Chukoo Shaha's case, stating that Chukoo Shaha was at Baneepudda notwithstanding he was present at this place and cut the *dhan.*"

Before this court the prisoner pleaded *not guilty* to the charges on which he was arraigned. And being asked at the close of the trial if he had any thing to urge in his defence, he

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merely stated that the darogah and burkundaz shut the door of his house while he was inside of it, and on opening it again, beat him and told to say he had killed Bhuggort Booce, but he killed no one, and he did not recollect what he wrote. And the witnesses, who were his relations and connections had given false evidence to ruin him.

Mr. N. Collyer, officiating civil surgeon, deposed that, on the *post mortem* examination of the body of the deceased Bhuggort Booee, he found a punctured wound on the upper part of the right side of his chest, which had wounded the pericardium and large vessels in the vicinity of the heart and likewise the upper part of the right lung, which wound, in his opinion, was the cause of death.

This witness likewise examined the wounds on Hossein Shah and his son Sufdar, and deposed that the wound on the former was not of a dangerous nature (blood had congealed over it and he did not probe it), but that the wound received by Sufdar was of a very serious nature and endangered his life.

The *futwa* of the law officer, which accompanies, convicts the prisoner of the crimes charged, but states a sentence of *kissas*, or capital punishment, is barred in consequence of doubts having been created by the circumstances of the case as to the sanity of the prisoner Kadir Shah, at the time he committed the murder and wounded Hosein Shah and his son Sufdar, and that he is liable to the punishment of *deyut*.

The charges are fully proved against the prisoner Kadir Shah, by the evidence of the eye-witnesses to his stabbing Bhuggort Booee, the wounds on the persons of Hossein Shah and his son Sufdar, the mofussil confession of the prisoner and the general circumstances of the case. And, although the witnesses have endeavoured to make it appear that the prisoner was not of sound mind when he committed the crimes with which he stands charged, I am of opinion from the unequivocal and direct manner in which the prisoner stated in his confession that he killed or stabbed the deceased and others with his knife, in consequence of quarrels previously existing between them and a dispute which had taken place on the day of the occurrence, that the prisoner, though excited and exasperated at the time, was not insane, and that he was in such a state of mind as to know that he was committing an unlawful act for which he would be held responsible. I, therefore, concurring in the *futwa* in so much that it convicts the prisoner Kadir Shah, with the wilful murder of Bhuggort Booee and of wounding Hossein Shah and Sufdar Shah with the intent to kill them, and believing that the depositions of the witnesses to the effect that he was laboring under mental aberration at the time he committed the crimes have been fabricated to save the prisoner, who is their zemindar and is related to some of them, as is fully

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evinced by the exaggerated evidence of Kureem Buxsh, witness No. 3, see no reason why the prisoner should not suffer the extreme penalty of the law, and in consequence feel myself compelled to recommend that he be sentenced accordingly.

Resolution of the presidency court of Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes.) No. 626, dated the 20th July, 1855.

The Court, having perused the papers connected with the case of Kadir Shaha, observe that the prisoner gives a very clear detail of the murder, and assigns the cause of it before the police. He denies before the magistrate and sessions judge. There are four eye-witnesses to the prisoner's stabbing the deceased; prisoner's brother also deposes to having been wounded by him.

On being questioned by the darogah, the prisoner pleaded that he did not know what he said or did, that he was not always of sound mind and that for four or five years he had been in this state.

In the magistrate's court, when called on to answer to the charge, he said he had, two or three days before the murder, been suffering from a complaint called "*har phootie*," and described by the sessions judge to be an eruption of small pustules on the skin, which disordered his mind. The witnesses speak to this fact, but say he never before evinced symptoms of aberration of mind.

The magistrate should have examined the medical officer as to fact of such existence of eruption on the prisoner, when first apprehended, and the nature and tendency of it He should have ascertained by medical officer's evidence whether the complaint did produce or was likely to produce the effects ascribed to it.

Without full information on these points, the Court are unable to pass final judgment in a case of such grave importance. The record must be returned and the sessions judge will examine both the magistrate and the medical officer, as well as any other witnesses, who may be able to throw light on the point, and, having taken a fresh *futwa* and any defence, which the prisoner may wish to make, pass such judgment in the case as he may deem proper.

From the sessions judge of Cuttack. To the Register of the Sudder Nizamut Adawlut, No. 127, dated the 11th August, 1855.

I herewith beg to re-submit the papers connected with the trial of the prisoner, Kadir Shaha, charged with the wilful murder of Bhuggort Booee and wounding two others with the intent to murder them.

I have, in conformity with the instructions communicated in the Court's resolution No. 626, dated the 20th July last, recorded the depositions of Mr. W. J. Longmore, the committing officer, and Mr. N. Collyer, the officiating civil surgeon; but they do not

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throw much light in the nature of the disease called *har phootie* or the effects it might possibly produce, though the inference to be drawn from the deposition of the latter is, that it would not cause mental aberration amounting to insanity.

I have likewise recorded the depositions of the jail darogah, Grischunder Roy, and two burkundazes, Muthoormohun Panday and Juggoo Singh, who have been in the habit of seeing the prisoner since he was committed to jail, likewise the deposition of Sadoo Churukur, the mohurrir, who recorded the answer of prisoner in the foujdary court, and they all state that the prisoner had the disease in question at the time he was committed to jail.

The jail officers further depose that the demeanour of the prisoner, ever since his commitment to jail, has been dull and silent, and that he has evinced a general indifference to what was passing around him, extending even to the partaking of his daily meals, but none of them state that he has displayed any decided symptoms of insanity.

It was reported one morning by another prisoner to the jail darogah that Kadir Shaha had, during the night mounted or got on his breast, and he was, in consequence, ordered by the acting magistrate to be handcuffed, and he still has the handcuff on.

The prisoner appears downcast and dull, but he evinced no signs of mental aberration either at the present or privious investigation of the case.

The *futwa* now taken convicts the prisoner Kadir Shaha, of the crimes charged, but, as before, declares *kisass* barred in consequence of doubts existing as to the state of his mind when he committed them And concurring in the conviction of the prisoner, I, under all the circumstances of the case, would give him the benefit of the doubts expressed in the *futwa* as to *his state of mind at the time he committed the crimes* with which he stands charged, and I accordingly beg to recommend that he be sentenced to imprisonment in banishment beyond sea for life.

Remarks by the Nizamut Adawlut - (Present: Sir R. Barlow, Bart, and Mr. H. T Raikes) This case was remanded for investigation as to the state of the prisoner's mind at the time he stabbed Bhuggort Booee and wounded two others, Hossein Shah and his son, Sufdar, the return has not elicited any thing which establishes that the prisoner was then labouring under mental aberration. The prisoner in the mofussil stated that a previous quarrel existed between the deceased, Bhuggort Booee and himself, on account of which he bore him enmity. Again yesterday he had "an altercation with him, and at noon, he stabbed him in the breast with his knife, and he died from the effects of the wound Further on, in the confession, prisoner

states he does not know what he says and does. He killed Bhuggort because he bore him enmity for giving evidence in Chukoo Sha's case." Before the magistrate and in the sessions he denied "having killed the deceased, he killed no one and did not recollect what he wrote."

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The sessions judge, in his letter of the 12th June, records that from the unequivocal and direct manner in which the prisoner stated in his confession that he killed or stabbed the deceased and others, he is of opinion that the prisoner, though excited and exasperated at the time, was not insane, and that he was in such a state of mind as to know that he was committing an unlawful act for which he would be held responsible. He believes that "the depositions of the witnesses to the effect that the prisoner was laboring under mental aberration at the time he committed the crimes, have been fabricated to save the prisoner who is their zemindar and is related to some of them."

After careful revision of all the proceedings connected with the case, we see no reason to pass a mitigated sentence upon the prisoner as proposed by the sessions judge in his letter of the 11th ultimo. There is no evidence to prove previous insanity nor at the time of the commission of the murder by the prisoner. We therefore sentence him to suffer death.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND MUDHOOSOODUN DOSS

versus

SREEMUNT MYTEE (No. 4,) SREEMUNT SAWONT (No. 5,) RADHOO MYTEE (No. 6,) BHUGEE SAWONT (No. 7,*) AND MUDHOO GHORA (No. 8.*)

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Case of SREEMUNT MYTEE and others.

CRIME CHARGED.—1st count, burglary in having burglariously entered the house of the prosecutor, Mudhoosoodun Doss, and stolen therefrom property to the value of Co.'s Rs. 451-14, two Bank Notes, (number and amount unknown) and a bundle of cloth; 2nd count, having in their possession stolen property knowing the same to have been so acquired.

CRIME ESTABLISHED.—Burglary and having in their possession property knowing the same to have been so acquired.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Conviction and sentence passed by the sessions judge on a charge of burglary, upheld in appeal.

* Acquitted by the lower court.

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Tried before Mr. W. Luke, sessions judge of Midnapore, on the 5th June, 1855.

Remarks by the sessions judge.—On the night of the 24th March, the house of the prosecutor was burglariously entered, and property carried off to the value of Rs. 451-14.

The prosecutor's suspicions falling on the prisoners, No. 4, Sreemunt Mytee, and No. 7, Bhugee Sawont, they were arrested. The former then admitted that he and others whom he denounced, including the names of the prisoners, Nos. 5 and 6, had robbed the prosecutor, and produced, from a spot under the eaves of his dwelling, where they were buried, sundry articles of property which the prosecutor identified as his. The prisoners, No. 5, Sreemunt Sawont, and No. 6, Radhoo Mytee, when arrested, also confessed to having joined in the robbery and pointed out the property they had concealed and which the prosecutor recognized as his and part of that stolen. The prisoners plead *not guilty* before the magistrate and in this court, and set up *alibis* in defence, and prisoners Nos. 4 and 6, plead that they did not point out the property which the prosecutor identifies. The assessors, with whose aid the trial has been held, convict the prisoners, Nos. 4, 5 and 6, of the charges preferred against them. I concur in this finding. The thannah confessions are corroborated by the finding of the property in the prisoners' possession and by the whole of the circumstantial evidence elicited on trial. The prisoners are unable to impugn it in any way, and I therefore convict them on both counts of the charge on which they are arraigned and sentence them as stated below. The magistrate's attention will be called to the gross negligence of the zemindar or his representative in the village and of the ameen, mookhtyar and chowkeedar, who never reported the burglary in prosecutor's house at the thannah.

Sentence passed by the lower court.—Five years' imprisonment each with labor in irons, and to pay a fine, under the provisions of Act XVI. of 1850, jointly and severally of Rupees 353-4-6.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We see no reason to interfere with the conviction and sentence.

PRESENT:

J. H. PATTON, Esq., *Judge.*

GOVERNMENT

versus

SHEIKH KHANNOO.

Mymensingh.

1855.

September 28.

Case of SHEIKH KHANNOO.

The prisoner was convicted of the culpable homicide of his wife, a girl of fifteen years' old, by kicking her on the head.

Appeal rejected.

CRIME CHARGED.—Wilful murder of Alochee Bebee.

CRIME ESTABLISHED.—Culpable homicide.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensingh.

Tried before Mr. W. T. Trotter, sessions judge of Mymensingh, on the 11th July, 1855.

Remarks by the sessions judge.—From the evidence recorded on the trial and the prisoner's mofussil and foujdary confessions, it appears that his wife, a girl of fifteen years of age, tied up a goat in his house with a long string, which admitted of the animal making water on the prisoner's bed, upon this he became enraged and gave her a kick with his wooden shoes, which fractured her skull and ended in her death on the same day. The civil assistant surgeon, who examined the deceased's corpse, deposes to death having been caused by a fracture of the skull and that there was a lacerated wound, an inch and half in length, on the scalp. The prisoner admitted having kicked his wife, before the police and magistrate, and which has been fully corroborated by the witnesses to the confessions. In this court, he denied his guilt. I am, however, of opinion that the charge has been fully established by the evidence of the witnesses for the prosecution, who distinctly depose to having heard from the prisoner that he kicked the deceased on the head with his wooden shoes on. The jury gave in a verdict of culpable homicide against the prisoner, in which I concur, and under all the circumstances of the case, I consider that a punishment of five years' imprisonment with labor and irons, will be sufficient and sentence him accordingly.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The prisoner pleaded guilty before the police and the magistrate, and his plea before the sessions judge that his wife, the deceased, died from the effects of fear from exposure to a thunder-storm is futile. I see no reason to interfere with the conviction and sentence.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND FAUD SINGH

versus

GHASSEEA.

Hazareebaugh.

1855.

September 28.

Case of GHASSEEA.

The prisoner was convicted of the wilful murder of a man, whom he found intriguing with a woman whom he kept, and sentenced to transportation for life.

CRIME CHARGED.—Wilful murder of Adheen Singh.

Committing Officer.—Captain W. H. Oakes, principal assistant commissioner, Lohurdugga division.

Tried before Major J. Hannyngton, deputy commissioner of Chota-Nagpore, on the 9th August, 1855.

Remarks by the deputy commissioner.—The prisoner pleads guilty.

It appears that for about three years deceased, Adheen Singh, had cohabited with a woman, named Sadhoo, (witness No. 21,) but that in April last, having put her away, her parents made her over to the prisoner.

On the night of the 29th June, the witness Sonatun, No. 20, hearing a cry of murder, ran out and saw the deceased, Adheen Singh, lying dead and the prisoner standing by with a sword in his hands, witness raised an alarm and the prisoner fled. Two witnesses, Balye, No. 7, and Gourhuree, No. 8, hearing the outcry, saw a person whom they could not recognize running away.

The prisoner being apprehended confessed the murder, stating that he had found the deceased in the act of criminal intercourse with Musst. Sadhoo. Wherefore in rage he killed him.

To this confession the prisoner has throughout consistently adhered.

This account of the fact is confirmed by the witness, Musst. Sadhoo No. 21, who states that the deceased had forcibly laid hands on her, and that the prisoner on her outcry came to her assistance.

The prisoner's defence is the same as his confessions.

The jury,* who are named below, find the prisoner guilty, as charged.

That the prisoner committed the murder is proved conclusively, and it has only to be considered whether the extenuating circumstences urged by him have any weight. The prosecutor

* Lalla Enjory Lall.
Ditto Luchmenarain.
Ditto Gujraj Singh.

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has stated that the deceased, notwithstanding he had put away Musst. Sadhoo, still kept up a clandestine intercourse with her. The prisoner in his confession before the principal assistant mentions that he had warned the deceased, on pain of death, to make no such attempt. That at the time of the murder deceased had committed, or attempt to commit, a rape on Musst. Sadhoo, rests on her sole evidence. And a slight circumstance tends to discredit this. The deceased had gone out taking in his hands a rude musical instrument called "*Tooela*" which is played with both hands, and this instrument was found close by the body, at some distance from the place where deceased was first attacked by the prisoner Now if the prisoner had used force on Musst Sadhoo, it is not probable that he could have retained the "*Tooela*." I infer therefore that if any intercourse occurred between the deceased and Musst. Sadhoo, it was voluntary on her part However, suddenly to find her with the deceased, under any condition, might exasperate the prisoner, whose being armed is explained by the circumstance of his being employed as a watchman. I am therefore disposed to allow that the provocation pleaded by the prisoner has some foundation; I would for this reason spare his life; but seeing that the woman was not his wife, and that the murder was wilful, prisoner having pursued the deceased and inflicted fourteen wounds on him, I would recommend that he be imprisoned for life with hard labor in irons.

Remarks by the Nizamut Adawlut —(Present: Messrs H. T. Raikes and J. H Patton) Although we give no credit to Musst. Sadhoo's account of the prisoner's having attempted to force her person, and take the same view of the case as the deputy commissioner has done, and are willing to make the same allowances for the provocation received by the prisoner, we convict him of the murder charged, and sentence him, as proposed to imprisonment for life, but annex the penalty of transportation, seeing no reason to mitigate the sentence further.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MUSST. NEOREE.

Sarun.

1855.

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Case of MUSST. NEOREE.

The prisoner, charged with the murder of her new-born infant, was acquitted, there being reason to doubt whether the child was born alive, or was alive when thrown into the well by its mother.

CRIME CHARGED.—Murder of her new born infant.

Committing Officer.—Mr. W. F. McDonnell, officiating magistrate of Sarun.

Tried before Mr. H. Atherton, sessions judge of Sarun, on the 6th August, 1855.

Remarks by the sessions judge.—On the 12th ultimo, the body of a new born male child was found in a deep well close to Saudpore mouzah. Notice was instantly given to the darogah of Galdungunge, and inquiries instituted, which led to the apprehension of the prisoner, who being examined was found to have been recently delivered of a child, vide witnesses Nos. 10 and 11, Musst. Bahuree and Musst. Fureea. When questioned by the darogah she said that she gave birth to a child the previous night in a field and that, at the instigation of the father, Deelah Pauree, she threw it alive into the well close by. The same confession was made before the magistrate, both confessions being proved by the witnesses as per margin.* Here she denies the murder, but admits having given birth to a dead child in the field, which she says was dragged into the well by a jackal. The civil assistant surgeon† cannot speak positively as to the cause of death from the state in which the body was, on its arrival at the station; but I do not think there can be the least doubt that the child was born alive and that it was thrown alive into the well, and I therefore agree with the moulvee in considering the charge proved. The woman's husband went some years ago to the Mauritius, and the father of the child, the prisoner states, is a brahmin of her village. There is no *proof* of his having instigated the murder, but I believe that in this and almost every case of the kind, the woman acts under compulsion, and I do not therefore recommend a more severe punishment than fourteen years' imprisonment with labor suited to her sex. The Government might easily stop all murders of this description, if it would only pass a law awarding, in every instance, in cases in which no participation in the murder might be proved, seven years' imprisonment to the father in the

* No. 5, Motee Rani.
,, 6, Radhaykishen Telie.
,, 8, Bakhuntlal.
,, 9, Rewutlal.

† No. 4, Dr. A. Fleming civil assistant surgeon.

event of his not having, before the birth of the child, reported the pregnancy of the woman in child by him.

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Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Although the prisoner confessed that the child was alive, when she threw it into the well, yet we think there is great room to doubt this from the medical evidence before us. The assistant surgeon has stated in his examination that the child appeared to have been prematurely born, that there were no marks of injuries on its body, the lungs were but little expanded, and if the child lived after birth, it must have been for a very short time. It becomes a question, therefore, what time elapsed between the birth of the infant and its immersion in the well, and whether such immersion accounts for the state of the lungs as arising from the child having been drowned immediately after its birth. The well is described as being at a distance of ten *russees* from the field, where the birth took place, and the woman states that two *ghurries* after her delivery, she carried the child to the well. There must then have been ample time for a living child to have respired freely, and there is no reason to account for this indication of life being wanting, and although we are aware that absence of signs of respiration are considered by medical men to be no certain criterion of the extinction of vital power in the child, yet we think the tenor of the medical evidence in this case is in favor of the fact pleaded by the prisoner, before the sessions, that the child was either still-born or may have survived its birth only a very short time, and was dead when the mother reached the well, and that under these circumstances, the prisoner is entitled to the benefit of the doubt as to the infant being alive when immersed in the water. We would therefore acquit her of the murder.

PRESENT:

J. H. PATTON, ESQ., *Judge.*

GOVERNMENT AND JUDHESTEE GOORIA

versus

RAMCOOMAR MONDOL (No. 1,) SUMIROODDEEN SHEIKH (No. 2,) OBHOYCHURN GHOSE (No. 3,) GOPALCHUNDER SHAHA (No. 5, APPELLANT,) AND ADU SHEIKH (No. 6.)

Jessore.

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Case of GOPALCHUNDER SHAHA and others.

Conviction and sentence passed by the sessions judge on a charge of burglary, affirmed in appeal.

CRIME CHARGED.—1st count, Nos. 1, 2, 3 and 5, burglary in the house of the prosecutor, "Judhestee Gooria" with theft of property and cash, valued at Rs. 1,121-14½, on the night of the 9th of June, 1855, corresponding with the 27th Jeit, 1261, B. S.; 2nd count, Nos. 1, 2, 3 and 6, having in their possession, or receiving knowingly portions of the stolen property.

CRIME ESTABLISHED.—Nos. 2 and 5, burglary and stealing property to the value of more than 300 Rs. Nos. 1 and 3, detaining stolen property, knowing it to have been acquired by burglary and No. 6, knowingly receiving stolen goods.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Malet, officiating sessions judge of Jessore, on the 23rd August, 1855.

Remarks by the officiating sessions judge.—The plaintiff states that on getting up from his bed during the night of the 27th Joist, corresponding with 9th June, to make water, he discovered that his house had been entered by two holes cut through the raised earthen foundation of his house; he went in, lit a *cheragh* and looked about; to his dismay he found his chest broken open, and cash and property to the amount of Rs 1,121-14½, taken away, he accounts for his not having been awakened by the thieves, by the supposition that he was enchanted. He called his neighbours (who fully bear out these facts) and gave intelligence to the police, which was delayed one day by a storm; the usual enquiries were made, the first person apprehended on suspicion was No. 1, (he having been lately turned out of service by the plaintiff,) who made a confession implicating Nos. 2 and 3, and produced two pieces of cloth, which he said he found on the road; Nos. 2 and 3 were apprehended, who implicated all the others with the exception of No. 6, who was caught in a very singular manner. A man by name, Lal Mahomed, not apprehended, was overheard abusing his wife about some of the property, this was mentioned to the darogah, who on making enquiry, discovered that some of the property was in the possession of No. 6, he was immediately taken prisoner; there is be-

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sides this evidence that of three men, who declare they heard and saw the prisoners consulting together before the robbery, which, by the way, I may say, I believe to be false.

The proofs against No. 1, are, that he confessed in the mofussil and before the magistrate, he was named in the depositions of his companions and some of the property was found in his possession; before me he could make no defence but a denial, and an insinuation that he was rendered stupid by smoking before he went to the magistrate, his witnesses can say but little for him.

No. 2.—There are the same proofs against this man as the other, except that in his deposition he confesses to having been engaged in the actual burglary; before me he of course denied, saying that he was forced to confess at the thannah and persuaded to do so before the magistrate.

No. 3.—The same proof as against the others. This man appears to have been the most trusted of the gang as the whole of the silver ornament to the value of about 395 Rs. were in his keeping; they were discovered buried in a common earthen pot in a field at some distance from his house; before me he denied, stating that the pot was buried by the police, and that his confessions were extorted; there were some slight marks as of beating with a switch on the man's back, but his witnesses could say nothing for him.

No. 5.—The same proofs as against the above Nos. 2 and 3, except that no property could be found: this man is said to be the "*oostad*" or teacher of the rest; before me he denied and said that something like water was given him to drink before he confessed to the magistrate, which put him out of his proper senses, his witnesses give him a fair character, but nothing to clear him.

No. 6.—The proof against this man differs from that against the other: a conversation was heard about the property between one Lal Mahomed and his wife, on following it up, it appears that three golden armlets had been given to him to keep, he was apprehended and the property found to the value of more than 60 Rs., he confessed in the mofussil and before the magistrate; before me he denied, saying that he was taught by the darogah to confess in the foujdary; his witnesses were his own near relations, who spoke well of him.

The case was tried by me with the assistance of a jury, they found Nos. 1, 2, 3, 5 and 6, guilty; in this I concur, and considering Nos. 2 and 5, guilty of burglary and stealing property to the value of more than 300 Rs. have sentenced them each to seven years with labor in irons. Nos. 1 and 3, I believe to have been also guilty of the same, but considering it only legally proved that they are guilty of detaining stolen property, knowing it to have been acquired by burglary, I also sentence them to seven

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years with labor and irons. No. 6, I consider to have been simply guilty of knowingly receiving stolen goods, I sentence him to five years with labor in irons.

The conduct of the police calls for some remark, the darogah is said by some of the witnesses to have apprehended No. 4, and kept him three days at the thannah before sending him in, but this does not appear from the official papers, I should wish to bring this to the magistrate's notice, he can be guided by the man's character as to whether it is worthy of enquiry or not. Gopaul Chowkeedar appears to have behaved very well, it was owing to him chiefly that any of the party were apprehended and specially No. 6, I therefore direct a reward of 10 Rs. to be given him.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The prisoner has appealed, but has advanced nothing in his petition, beyond the particulars set forth in the defence he made before the sessions judge. That officer has convicted and sentenced him, on his confessions before the police and the magistrate, and I see no cause for interference with his orders.

PRESENT:

J. H. PATTON, ESQ., *Judge.*

24-Pergunnahs.

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GOVERNMENT AND TARACHAND KAURAR

versus

TEETOO GAZEE SURDAR (No. 1,) SHOOKOOR MUNDUL (No. 2,) USHRUFF KOLOO (No. 3,) GORYE SHEIKH (No. 4,) BUDDUN GAZEE (No. 5,) ZUMEER GAZEE (No. 6,) KEFAYUTOOLLAH MUNDUL (No. 7,) AND SHISTEE KHALASEE (No. 8.)

Conviction and sentence passed by the sessions judge on a gang of dacoits affirmed and one prisoner, an old offender, sentenced to transportation for life.

CRIME CHARGED.—1st count, Nos. 1 to 8, dacoity in the house of Tarachand Kaurar, and plundering therefrom property to the value of Rs. 142-6; 2nd count, having belonged to a gang of dacoits; 3rd count, No. 2, receiving property obtained by dacoity, knowing that it had been so obtained.

Committing Officer.—Mr. H. D. H. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 16th August, 1855.

Remarks by the additional sessions judge.—The plaintiff's house was attacked, at 3 A. M. 15th July, 1855, by a gang of dacoits. They entered the house, robbed the prosecutor's wife of the jewels she had on at the time, and, breaking open a

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chest, they extracted out of it a box of jewellery and then decamped.

The villagers had been roused; there was a police *ghatee* not far, and the only practicable road, by which to escape, was a narrow winding path through an extensive rose-garden, which the dacoits accordingly took.

The assembling of the villagers and the difficulty the dacoits experienced in making their way through the thorny bushes of the garden by which the house was surrounded, would seem to have considerably terrified them, for they abandoned the box of jewellery; and by four of their number having been apprehended near the spot at about dawn, it is evident they were either so much cowed by the difficulty and danger of their position, or had so lost their way, that they did not venture to move far from the scene of their depredations, till day-light showed them their way clearly, and restored them to some degree of confidence.

The rumour of the dacoity spread fast and in all directions, and every avenue and thoroughfare was closely watched and guarded by different parties of police-watchmen and villagers, before it was fairly light, prisoners Nos. 1, 2 and 3, were seized within half a mile from the prosecutor's house soon after they began to move from their hiding-place. They made great resistance, but were overpowered and all three were covered with scratches, and were bleeding from thorn wounds. Not far from this place witness No. 1, was seized by another party, and he too had fresh marks, indicating plainly where he had been; an umbrella, belonging to the prosecutor, was found on prisoner No. 3.

Prisoners, Nos. 1, 2 and 3, and witness, No. 1, having been taken to the house, the plaintiff's wife, and brother, both declared that they were the daçoits. Almost immediately after, witness No. 1, made a full confession, implicating prisoners, Nos. 1, 2, 3, 4, 5 and 6, and two others, whose names he was not acquainted with, and it is asserted that prisoner, No. 3, also made a verbal confession at first, but thought better of it when his defence was about to be recorded.

A party of police were instantly despatched to the interior of zillah Nuddea, where all the parties, named by the witness Hurranund lived; prisoners, Nos. 4, 5 and 6, were arrested and the police, discovering that these persons, who had only just returned to their homes after a short absence, had come back in company with prisoners, Nos. 7 and 8, took measures to apprehend them. The two latter persons were no sooner taken up than they immediately confessed, and they repeated their confessions to the magistrate.

Prior to the arrest of any of the prisoners, the prosecutor's wife and brother had both given out that they had seen two of

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the men, who were among the dacoits the day before the dacoity. They visited, so it was said, the prosecutor's house on the pretence of wanting a medicinal plant, which might be growing in the prosecutor's garden. They had some conversation with the prosecutor's wife, walked round the premises and then left. When prisoners, Nos. 1, 2 and 3, were arrested and taken to the prosecutor's house, his wife at once declared that prisoner, No. 1, was one of the two men, who had been to her house the day before. Prisoner No. 3, is a tall thin man, and such the prosecutor said was the other person, who came in company with prisoner No. 1. Still so truthful was this witness that she maintained that it was not Ashruff, but when the other prisoners were arrested on Hurranund's information, she, at once, put her hand on Buddun as the man, and as evidence that her recognition was right, his body presented fresh marks of laceration from thorns.

The prosecutor's brother, as well as witness Rammony Dassee, also stated that prisoners, Nos. 1 and 5, were the persons who had come to the house the day before the dacoity, and both the prosecutor's wife and brother affirm that they recognized all the prisoners, but No. 7, as they were engaged in the plunder of the house.

Hurranund, who has been made a witness, affirms that all the prisoners were in the dacoity.

The magistrate has recorded, in his grounds of commitment, the following points as establishing in his estimation the proof of guilt of each of the prisoners.

"I will now state as briefly as possible the points established against each prisoner.

"*No.* 1, *Teetoo*, seized in the neighbourhood of plaintiff's house immediately after the dacoity; his body covered with perfectly fresh scratches. He is sworn to by the approver and by witnesses, Nos. 2 and 3. He is recognized by the witnesses, Nos. 2, 3 and 22, as one of the men who went to plaintiff's house on pretext of procuring a medicinal shrub the day before the dacoity. Recognized as one of the most notorious dacoits in Bengal, and has long evaded the process of the dacoity commissioner. His reason, for being sixty miles from his village when arrested, is proved to be false.

"*No.* 2, *Shookoor*, seized in the neighbourhood of plaintiff's house immediately after the dacoity with part of the plundered property, (viz. plaintiff's umbrella) in his possession. His reason for then being sixty miles from his village is false and absurd. Sworn to by the approver (witness No. 1,) and also by witnesses Nos. 2 and 3. Proved to have been in company with Goroy, Ashruff, Zameer and Shisty before the dacoity. Proved to be a notorious dacoit, well known to the dacoity commissioner.

"*No.* 3, *Ashruff*, seized in the neighbourhood of plaintiff's house, his body covered with fresh scratches, confessed verbally to the police before a crowd of villagers, sworn to by the approver (witness No. 1,) and also by witnesses Nos. 2 and 3, and being a man of very remarkable stature and countenance he would be known among a thousand, and once seen could never be forgotten. Proved to have been in company with Shookoor, Goroy, Zameer and Shisty before dacoity; proved to be a notorious dacoit.

"*No.* 4, *Goroy*, named by the approver (witness No. 1) and sworn to by witnesses, Nos. 2 and 3, denies having left his home; but proved to have been in Entally about the time of the dacoity in company with Shookoor, Ashruff, Zameer and Shisty; proved to have returned home just after the dacoity in company with Zameer and Shisty, recognized as a notorious dacoit well known to the dacoity commissioner.

"*No.* 5, *Buddun*, named by the approver (No. 1) and sworn to by witnesses, Nos. 2 and 3. Proved to have accompanied Teetoo to plaintiff's house, on pretext of wanting a medicinal shrub, the day before the dacoity, and a striking description given of his person, *some days before his arrest*, by plaintiff's wife (No. 2). Fresh scratches found on his legs and body when arrested and brought before me, and he fails to account satisfactorily for these scratches

"*No.* 6, *Zameer*, named by approver (witness No. 1) and sworn to by witnesses, Nos. 2 and 3. Proved to have been in Entally, in company with Ashruff, Shookoor, Goroy and Shisty before the dacoity, though he denies having left his village, sixty miles from Entally. Proved to have returned home from this part of the country, in company with Goroy and Shisty just after the dacoity.

"*No.* 7, *Kifyutoollah*, named by the approver (witness No. 1) confessed at thannah Kaguzpookureah, and repeated his confession most fully and freely before me. Previously to his confession being recorded, he sat beside me for more than an hour, talking in the coolest manner about the dacoity, and telling me every minute particular connected with it. This accounts for the minuteness with which I have recorded his confession and also for the somewhat striking similarity in several points between it and the approver's deposition, which I was careful not to allow to be near the mohurrir who recorded the confession. I have never seen any man confess more freely.

"*No.* 8, *Shisty*, recognized by the approver (witness No. 1) and sworn to by witnesses, Nos. 2 and 3, confessed at the thannah and to me that he accompanied the gang, proved to have been in company with Shookoor, Goroy, Ashruff and Zameer before the dacoity, and to have returned to his village with Zameer and Goroy immediately after the crime."

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The trial at the sessions has not weakened the force of the evidence upon which the commitment was based, and the remarks are, therefore, as applicable to the trial at the sessions as they were to the trial before the lower court.

The defence of prisoner, No. 1, is that he had come to Calcutta to seek for work, that having staid ten days without finding anything to do, he was returning home, when he was seized on the road early on the morning. He names witnesses to prove that he sought occupation while in Calcutta.

Prisoner, No. 2, says he had a quarrel about caste with a neighbour and that he came to Calcutta, where his zemindar resides, to see how his case was likely to end, that while he was on his way to the cutcherry he was seized. He further affirms that he passed the night of the dacoity in the house of witnesses, Nos. 47, 48 and 49, but these persons utterly contradict that assertion. The prisoner, it should be stated, denied that any umbrella was found in his possession at the time of his arrest.

Prisoner No. 3, says that having left Gowreepore, he was coming to Calcutta when he was arrested. He calls witnesses to character.

Prisoner No. 4, says he came to Calcutta to see if any complaint had been made against him by one Bolaie to his zemindar, that finding there had been none made he returned home, when he was almost immediately apprehended by the police. He names one witness, No. 50.

Prisoner No. 5, says that he gave an entertainment to some of his friends at home, and that they will prove that he was in their company on the night of the dacoity. But the parties named do not in the least establish the defence.

Prisoner No. 6, makes precisely the same defence as prisoner No. 4. He named witnesses to prove that he passed the night on which the dacoity took place with them. One witness, No. 51, denies the fact and the prisoner repudiated the others.

Prisoner No. 7, confesses that he was inveigled into the commission of the dacoity and calls witnesses to character. They speak well of him.

Prisoner No. 8, says he came to Calcutta hoping to get employment as a coolee, finding he could get nothing to do, he had returned home after an absence of four or five days when he was seized by the police. He denies his confessions and calls witnesses to character.

There can, I think, be little doubt that the parties, implicated in Haranund's confession, were in the dacoity. They have been recognized also by the wife and brother of the prosecutor. The evidence of the wife, is, in my opinion, specially deserving of credit. She is a person of very quick intellect, she seems to possess a great deal of character, her intelligence is

above the general run of her class, she had good opportunity of examining the person of the dacoits and there is little doubt she is just the person who would scan the parties well, and that the view would not be lost upon her. Thus, as soon as she saw Teetoo, she not only recognized him as having committed the dacoity, but affirmed that it was he who came to her house the day before to look for a plant. Ashruff answered the description of the man by whom Teetoo was accompanied, yet so truthful was this witness that she refused to recognize him and when Buddun was arrested she declared him to be the man. This statement of the prosecutor's wife, that Teetoo and Buddun went to her house the day before the dacoity, is rendered highly probable from what Hurranund says. It is stated by him that the gang went the day before to commit the dacoity, but that he was so frightened at the enclosed and jungly nature of the place that he refused to join. Nothing is more likely then, that some of the dacoits would go to inspect the place before they again went to make their attack upon it.

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From the direct evidence of Hurranund, which is specially worthy of trust from its having been given so immediately after his arrest and so soon after the occurrence of the act; from the recognition of all the prisoners but No. 7, who admits his guilt, and from all the facts of the case, I have no doubt whatever that the parties at the bar are the very men guilty of the dacoity under investigation and the evidence is, in my opinion, sufficient for the conviction of all on the specific charge of dacoity.

But the prisoners are charged also with having belonged to a gang of dacoits, and it is necessary to consider how the case stands against them in connection with this charge.

From the proved, or allowed, presence of all the prisoners in Calcutta, three days journey off from their homes, at the time of the dacoity; from their all leaving home about the same time, and that a few days before the dacoity, from no one but the men in and around the same village being concerned in the dacoity; from the return of such of the dacoits, as were not captured, to their homes immediately after the dacoity, and from the well known character of Teetoo as an old hand at dacoity, there is great reason to presume that the attack on the prosecutor's house, was arranged before the majority of the prisoners left their homes for Calcutta, and that they went there for the sole purpose of committing the dacoity. A dacoity conducted in this preconcerted manner under a practised leader, evinces that the persons concerned in it must have met, discussed and arranged plans for carrying out their common purpose, long prior to the dacoity. They form then, to all intents and purposes, a gang of dacoits, but as it is not usual to convict upon the general charge, except when the accused have been proved

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to have committed more than a single dacoity, I do not think that the charge of having belonged to a gang of dacoits ought to be declared proved on any of the prisoners but Teetoo. He has been shown, upon the testimony of an approver from the dacoity commissioner's office and upon the testimony of a prisoner in the Alipore jail, to have been concerned in a dacoity, which occurred years ago in Sooltanpore. Teetoo was named at the time by several persons, who confessed that crime, and every one, who did so confess, did not fail to implicate him. There is no doubt Sona Hajjam, witness No. 44, was in the dacoity, for he was convicted of it. Tummeezuddeen was named as concerned in it, but was acquitted by the magistrate. Both these persons it must be allowed are well able to speak as to the persons who committed the Sooltanpore dacoity. Sona Hajjam was the first to come forward and denounce Teetoo. He has been in the Alipore jail for the last four years, he has had no communication with Tumeezooddeen and yet his statement, given to the Alipore magistrate, agrees with that of Tumeezooddeen given to the dacoity commissioner. They both affirmed that Teetoo was a thorough dacoit, and both named him on their first examination, I have little doubt that some of the other prisoners are old dacoits too as both the approver witnesses affirm, but Tumeezooddeen did not name them in his confession to the dacoity commissioner, nor did any of the persons name any of the prisoners, but Teetoo when the Sooltanpore case was originally under trial. In consideration of what I have said above I acquit all the other prisoners of the charge, but I find Teetoo guilty of having belonged to a gang of dacoits.

If the superior Court should agree with me in regard to Teetoo, I recommend that he be transported for life.

I convict, Nos. 2, 3, 4, 5, 6, 7 and 8, of dacoity and sentence them each, to fourteen years' imprisonment with labor in irons, but I delay the issue of the warrant till the disposal of this reference in regard to Teetoo by the superior Court.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) This case has been referred for the orders of the Court in regard to the prisoner Teetoo Gazee, No. 1, on whom the sessions judge recommends the issue of a sentence of transportation for life, in consequence of a conviction by that officer of the crime of having belonged to a gang of dacoits.

The proof of the prisoner's complicity in the dacoity charged in the calendar, and his association with a gang of dacoits is, to my mind, conclusive. His arrest in the close vicinity of the plundered house, very shortly after the occurrence; the recently inflicted scratches on his person, when apprehended, caused by his passage through the thorny bushes of an extensive rose garden, which surrounds the habitation; his identity at the

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time of the dacoity by two persons; his recognition as one of the party, who visited the premises the day previous in pretended search of some medicinal shrub; his denunciation by the approver, witness No. 1, as forming part of the attacking gang, and his inconsistent and contradictory statements in defence, establish the first point, and his apprehension in the Sooltanpore dacoity, in July, 1851, his denunciation by six persons arrested in that dacoity, some of whom were convicted and sentenced; his mofussil confession in that affair in which he named some of the persons so convicted and sentenced, and his clear and distinct denouncement by the approver on the establishment of the dacoity commissioner and the Alipore jail convict Sona Hajjan, of being an associate of dacoits and participator with them in their unlawful pursuits, prove the latter. I therefore uphold the conviction and sentence the prisoner, as recommended by the sessions judge, to transportation for life. The prisoner was committed with eight others, who have been sentenced by the sessions judge, as will be seen by the concluding paragraph of his report of the trial, to fourteen years' imprisonment with labor and irons.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND MUSST. PUNCHYE

versus

MUSST. RADHEE (No. 3,) MUSST. PYAREE (No. 4,) MUSST. TARA (No. 5,) MUSST. PANNO (No. 6,) AND HURREE NAIK (No. 7.)

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The prisoners were convicted of the guilty receipt of stolen property, the knowledge of one of them being, that it had been acquired by murder. Irregularity as regards recording confessions, pointed out.

CRIME CHARGED.—No. 3, 1st count, wilful murder of Musst. Gowree and her son, Rama; 2nd count, having stolen from the house and persons of the murdered woman, Gowree and her son, Rama, property valued at Rs. 38-2, Nos. 4, 5, 6 and 7, receiving and having in their possession part of the property stolen from the house and persons of the deceased, Gowree and Rama, knowing that it had been stolen.

Committing Officer.—Mr. R. P. Harrison, magistrate of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 8th August, 1855.

Remarks by the sessions judge.—The following detailed account given by the magistrate, Mr. R. P. Harrison, of the manner in which the prisoners were apprehended and of the grounds of commitment, renders it unaccessary for me to enter on any

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recapitulation of them. I shall therefore briefly notice the evidence by which, in my opinion, the guilt of the two prisoners is established.

It appears from the evidence in this case that immediately the murders of the deceased persons were discovered, suspicion fell upon the prisoner No. 3, who was a person of very bad character and who had frequently been seen at the house of the deceased. The Balagustee jemadar proceeded to the house of a woman, named Gowree, where it was said Radhee was, to search for her, but not finding her, he left. Shortly afterwards she was seen by the witnesses, Suddye Bearer, Sheikh Ameer and Sheikh Imam Bux, endeavouring to escape from the back of Gowree's house and running about in an agitated state.

"Information was given to the police and she was apprehended. On being questioned, she denied all knowledge of the murders, but admitted that on the previous evening (June 9th,) she had received a *pittarah*, containing property belonging to Gowree from the prisoners, Hurree Naik and Bhuggee Bearer (acquitted), and that she had placed the *pittarah* in the house of the prisoner, Pyaree.

"Pyaree on being questioned by the police, denied the receipt of any property, but on searching her house and premises, a piece of cloth was found belonging to the deceased, Gowree, and she afterwards admitted that she had received the *pittarah* from Radhee, and had made over the contents to the prisoner No. 5, Tara, and that the *pittarah* had been burnt under the cow-shed in her compound.

"Ashes and signs that the *pittarah* had been burnt were found in the cow-shed in the spot pointed out. The prisoner Tara, denied having received any property from Pyaree, but on searching her home, several articles belonging to the deceased were found, some of them being concealed under the ground. She then admitted that she had received the articles from Pyaree.

"In the house occupied by the prisoners, Panno and Hurree, two pieces of cloth were found which have been proved by the evidence of the co-prosecutrix and the witness, Seruntee, to have belonged to the deceased Gowree The prisoners claimed them as the property of Panno, but the witnesses named by them have denied all knowledge of the property in question.

"A silver chain belonging to the deceased, which the prisoner Radhee stated she had pledged to Gowree, and which she said she had received from Roopye (acquitted) was found under the wall separating the compound of the woman Gowree (in whose house Radhee was apprehended) from that of Zainub Katunie and a sword was found in the garden of Chundernath Chaterjee, which the witness Uppee, states that she saw thrown over the wall, dividing Gowree's compound from the garden.

"Considering the charges against the prisoners to be proved by

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the admissions of the prisoners Radhee, Pyaree and Tara, Nos. 3, 4 and 5, by the evidence of witnesses, and by the circumstances of the case, I committed them to take their trial before the sessions court, on the 6th July, 1855, corresponding with 24th Assar, 1262, U."

Musst. Gowree and her son, Rama, were found lying murdered in their hut, the necks and heads of both of them having been all but severed from their bodies by a sword or some sharp cutting instrument.

There were no eye-witnesses to the murders, and the only reliable testimony against the prisoners consists of their own confessions.

The confessions of Musst. Radhee, the prisoner, No. 3, taken before the foujdary serishtadar on the spot and the magistrate on the 10th June, are almost word for word the same, and this is accounted for by their having been so immediately recorded the one after the other. The following abstract is made from that taken down in the presence of magistrate.

"I did not see how Gowree and Rama were killed, but at about 7 o'clock last night, as I was going from the bazar to Gowree's house with some rice, I met Hurree Naik and Bhuggee Bearer (the one acquitted by the sessions court and the other by the magistrate) the former of whom was carrying a *pittarah* which he told me to place somewhere, and on my enquiring what it contained, he replied *kansas*, *basuns*, &c., and he told me he would give me an anna if I would place them somewhere; I then took them, the above mentioned persons, to the house of Jugnah *muh*, viz., Musst. Pyaree, the prisoner No. 4, and gave her one anna and told her to keep the *pittarah* and its contents until the next day, when (Hurree) Naik would come and take it away. I then went to the *Chubooterah* by the tank in front of the civil court house and slept there. This morning I went on my business and returned at about noon, and was sitting near the house of Gowree, when I was apprehended by the Balagustee jemadar; I have for the last month or six weeks been in the habit of going to and from the house of Gowree, she having been unwell, and Hurree and Bhuggee were also in the habit of going there, therefore they gave the property in my charge. Gowree and Rama must have been killed the day before yesterday, otherwise how could the above named have given me the property yesterday evening. I was at the *guddee* or *muth* at Toolseepore the night before last; I went to Gowree's house yesterday at about noon and saw the *tattee* closed, and when I called, no one answered, and Bhuggee Bearer's wife who was in her own house told me Gowree was not at home, that she had gone to her father's and I went away.

* * * * *

"The property found in the houses of Musst. Tara and Ju-

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gnah *mah*, Musst. Pyaree, was given to me by Hurree Naik and Bhuggee Bearer, and I placed it with the latter. The *basuns* were found in Tara's house, and the *sarry* in Jugnah *mah's* privy. I before saw the property at Gowree's house."

The prisoner on being questioned again on the 12th June, as to who killed Gowree and her son, Rama? replied.

"That last Friday, five days since at 8-30 P. M., I went to the deceased, Gowree's house, at which time Gowree and Rama and Bhuggee Bearer and Hurree Naik were sitting talking together in the *kothree*, there was a light burning, and on my enquiring of Gowree, what she was doing? she said she was ill with fever; I then went to see the *jatra* at Bundarry Sahee, where I slept the night, and Bhuggee Bearer and Hurree Naik remained at Gowree's house. The next morning I gathered some *bél* leaves from the garden of Gowree Lukhurnee and went to the *guddee* at Toolseepore whence I returned at 3 P. M., and went and sat at Jugnah *mah's* (Musst. Pyaree, prisoner No. 4's,) house I went thence to Bhuggee Bearer's and asked his wife where Rama *mah* was, and was informed that she had gone to her brother's house. And in the evening I went again to Jugnah *mah's* house and asked her if Hurree Naik had taken away the property, and she said he had not. I then went and sat at Gowree Lukhurnee's verandah, where I was apprehended by the jemadar."

And on being further questioned regarding the *gôte* (chain) and *soota* (also a description of chain) which had been found the previous evening, and how she came by them? she replied.

"That four days ago, on Saturday, at 10 o'clock, I was sitting at Bhuggee Bearer's *sudder* door, when Bhuggee Bearer's wife gave me the *roopa soota* and told me to pawn it to some one and give her Rs. 1-8, and I pawned it to Gowree Lukhurnee for Rs. 1-8, which I gave to Bhuggee Bearer's wife, who said she had received the *soota* in pledge from some one unknown to her husband. And at the time she gave me the *soota*, she placed a *gôte* under a *handee* in which rice was cooked in her house. That the *soota* was found wrapped up in a rag in Gowree Lukhurnee's *barree* or garden; and on the darogah and jemadars asking me for the rest of the property I produced the *gôte* from under the *handee* where Bhuggee Bearer's wife placed it. The sword was found in Chunder Baboo's garden, but I don't know to whom it belongs. On Saturday night at 7 o'clock, while I was sitting in Jugnah *mah's* verandah, Hurree Naik and Bhuggee Bearer gave me a *pittarah* full of property and told me to place it in Jugnah *mah's* house, and they would take it away next day to the village. Jugnah *mah* first objected to take charge of it, but when Hurree Naik gave her an anna she kept it, and it was found at my indication. I asked Hurree Naik at 10 o'clock on Sunday, if he had taken away the property. I gave no medi-

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cine to Gowree, I was once imprisoned for two years for stealing some clothing. I don't recollect if I was imprisoned at any other time."

The following is the answer of Musst. Pyaree, prisoner No. 4.

"I do not recollect the day or the date, at 8 or 9 o'clock at night, the day before my house was searched, Radhee Bewa brought a cane *pittarah* containing some brass *basuns* and clothing, and placed them in my house, saying she would take them away next day; she said the *pittarah* belonged to her *mamoo* (maternal uncle) and that the *basuns*, &c., belonged to her master, Gopeenath Pundit, and I kept the *pittarah* and the *basuns*, but Radhee did not come the next day to take them away. And at about 3 P. M., a burkundaz came and asked for the *pittarah* which Radhee had placed in my house, and I became alarmed and called to Tara and told her to take charge of the property Radhee had placed in my house as it was about to be searched. She at first refused to take it, but afterwards came and took away the *pittarah* and its contents to her house, and I threw the *pittarah* into my cow-shed, where it was burned. Shortly afterwards, the magistrate and the thannah mohurrir arrived, and I said the property was at Tara's house and one piece of cloth (*sarree* No. 7,) was found in searching my house. After which I went with the police to Tara's house, and on my asking her for the property, she produced it. The cane *pittarah* I burned through fear, the ashes of it were in the cow-house."

Witnesses Nos. 11, 12, 13 and 14, to the mofussil confession of Radhee, prisoner No. 3, are all a very ignorant low class of people, and none of them had a distinct recollection of what the prisoner had stated, or who were present when her examination was recorded. In fact, witnesses Nos. 11 and 14, denied that any one had confessed before them; none of the said witnesses, with the exception of No. 12, could write his name.

Rughoonath Bose, the serishtadar of the magistrate's court, before whom the mofussil confession of Radhee was recorded, and Gopeemohun Rai, the mohurrir, who wrote it, were summoned by this court to attest it, but they only added to the confusion created by the other witnesses. The serishtadar stated that he was present when her examination was recorded on the 10th June, but not on the 11th idem, though it is evident from the tenor of the question that he must have been present on both occasions. And the mohurrir stated that he wrote the examination recorded on the 10th, but denied in the first instance that he wrote that recorded on the 11th, notwithstanding he was showed the deposition, and it is manifestly in the same hand writing as that of the 10th. He was afterwards obliged to admit that he wrote both.

Witnesses Nos. 15 and 16, depose to the confession of Radhee before the magistrate having been freely and voluntarily

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made, and there can exist no doubt of her complicity in the murder and her having received the property of the deceased, however far short of the *whole truth* her confession may be.

Witnesses Nos. 11, 12 and 17, depose to the finding of the property numbered 1 to 12, viz. No. 1, from the privy of Pyaree prisoner No. 4, and that numbered 2 to 11 from the house of Musst. Tara, acquitted, where it had been placed by the said Pyaree, and No. 12, from under the eaves of the *purchit* or wall, surrounding the house of the said Tara where it was burned.

Witnesses Nos. 18, 19, 20, 21 and 23, deposed to the finding of a silver *kursootta* or chain, lying on the ground under the eaves of the *purchit* or wall surrounding the garden of Jynub Khatoon.

Witnesses Nos. 23, 24 and 25, depose generally to the identity of the property, but their identification of the different articles would go but a short way to establish the crime of possessing stolen property, &c., independent of the admissions of the prisoners themselves.

Witnesses Nos. 7, 8 and 9, to the *sooruthal*, or mofussil examination of the bodies of the deceased Gowree and Rama, is also very unsatisfactory, and evinces great carelessness on the part of the officers who held the mofussil enquiries into this case; No. 7, says he only saw Gowree's body, and Nos. 8 and 9, that they saw Rama's and not Gowree's.

The officiating civil surgeon, Mr. N. Collyer, however who examined the bodies, deposed that on the body of Rama there was a wound on the upper part ot the neck, passing almost round it, dividing the muscles and nerves, and likewise the spine, and leaving the head attached by a small portion of skin on the posterior part. Likewise that there was a wound on the neck of Musst. Gowree, passing nearly all round, dividing the vessels and nerves, fracturing the spine and leaving the head attached by the spine and a small portion of integument in front. And that the above wounds were, in both instances, unquestionably the cause of death.

Musst. Radhee, prisoner No. 3, pleaded *not guilty* to both charges preferred against her, and stated in her defence that she never went to the house of the deceased Gowree and Rama; that she did not know them, nor did she know who killed them; that Hurree Naik and Bhuggee Bearer gave her the *pittarah*, which they said contained *kangsas*, *lotas*, &c., and that on their giving her one anna, she took the *pittarah* along with the said Hurree Naik and Bhuggee Bearer to Pyaree's house and placed it there; that the next morning she enquired of Jugnah *mah* (Pyaree) whether they (Hurree Naik and Bhuggee Bearer) had taken away the property, and she said no. And at 3 P. M. while she was sitting at the shop of Gowree Lukhurnee, the Balaghustee jemadar apprehended her.

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Musst. Pyaree, prisoner No. 4, on being called on to plead, replied that Radhee brought the property to her house and said she would take away the next day, and she further stated in her defence, that she did not see Hurree Naik and Bhuggee Bearer; that Radhee brought the *pittarah* and property to her house at about 8 or 9 o'clock at night, saying that the *pittarah* belonged to her *mammoo*, and that the contents was the property of her master, who had been to a *zeafut* or feast at the Buxshee bazar, and as she could not take them home to her house that night, she requested to be allowed to place them in her house till the next day, when she would take them away, and she consented to keep them. That the next day her people awoke her from sleep, when she heard a noise and supposing it might be in consequence of Radhee's having placed her master's property in her house, she became alarmed and took the property to Musst. Tara, and told her to keep it until Radhee came for it. That as Tara's wall divides their two houses, she gave the property to her over the wall, and where Tara placed it, she did not know, and she, prisoner, threw the *pittarah* into her cow-house, where there was a fire and it was burned. That on the following day her house was searched and nothing was found in it, but near to her privy a *sarry* was found, and I said that I had thrown the *pittarah* into the cow-house, whence the ashes of it were found.

The *futwa* of the law officer, which accompanies, acquits both the above prisoners, on the grounds that their admissions furnish no proof of their having known that the property was stolen, or that it belonged to the murdered Gowree and Rama. But from this verdict I dissent. I consider that the confessions of Radhee, prisoner No. 3, furnish violent presumptive proof that she was an accomplice in the theft of the property of the murdered Gowree and Rama, and that she was also aware that they had been murdered. There is also violent presumptive proof that Pyaree, prisoner No. 4, was aware that the property had been stolen, when she placed it in her house, otherwise she would not have transferred it to Tara, prisoner No. 5, when Radhee was apprehended, though she may not have been aware of the murder. And I recommend that Radhee prisoner No. 3, be sentenced to fourteen years' imprisonment in banishment to another zillah, and Pyaree No. 4, be sentenced to five years' imprisonment in the Cuttack jail, both with labor suitable to their sex.

Musst. Panno and Hurree Naik, prisoners Nos. 6 and 7, of the magistrate's calendar, I acquitted in concurrence with the *futwa* of the law officer.

In addition to the great carelessness exhibited on the part of the officers, who held the preliminary investigation of this case, it is quite evident from the circumstances attending the pro-

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duction of the silver chain, No. 16, by Radhee, the prisoner No. 3, from under the *handee* in the cook-room of Bhuggee Bearer, that an attempt was made to implicate the said Bhuggee Bearer by false or got-up evidence, which I consider in the highest degree discreditable to the police and others who were engaged in the mofussil enquiry. The prevaricating manner* in which the serishtadar and thannah mohurrir gave their evidence before this court was brought to the notice of the magistrate.

Remarks by the Nizamut Adawlut.--(Present: Messrs A. Dick and B. J. Colvin.) In this case the fact of the murders having been committed is undoubted, and it is evident that the property, which Musst. Radhee placed with Musst. Pyaree belonged to the deceased. The story told by Musst. Radhee that she got it from Hurree Naik and Bhuggee Bearer, who accompanied her to deposit it with Musst. Pyaree, is contradicted by Musst. Pyaree, who says she came alone. There is, therefore, no proof that she got it from the above individuals, and, as the property was in her possession so soon after the perpetration of the murders, and she was an intimate associate of the deceased, there is good ground for strong presumption that she knew how the property had been acquired. We therefore convict her under clause 2, Section 4, Regulation XII. 1818, of obtaining property by theft accompanied with murder, and sentence her to fourteen years' imprisonment with labor suited to her sex in the zillah jail. We also sentence Musst. Pyaree, as proposed by that officer, as her conduct fully warrants the presumption of the sessions judge that she was aware of the property she tried to conceal being improperly acquired. We note that the judge has, in his letter of reference, omitted to record any opinion regarding prisoner No 5, Musst. Tara, although in his vernacular order he has directed her release. Another matter to be observed is the circumstance of the magistrate having allowed a continuation of the police confession of Musst. Radhee to be recorded by the darogah, on the 11th June, when her confession had been recorded before himself on the day preceding.

The police had no authority to examine her after she was before the magistrate and police. The sessions judge has noticed the similarity of the confessions before the police and magistrate, but it is remarkable that the first question put, in continuation by the police and magistrate, by the former on the 11th, and by the latter on the 12th June, should be exactly the same; as also the other questions.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

GOVERNMENT AND HAKEEMOODDIN

versus

RAMSHURN GHOSE (No. 1,) GOPEE GHOSE (No. 2,) GUNGARAM DEO (No. 3,) PORAN SINGH (No. 4,) PANDUB DEO (No. 5,) REAZUDDEE (No. 6,) NUSSURUDDEE (No 7,) ALLIMUDDEE (No. 8,) RUBEEOOLLAH (No. 9,) MAHUBOODDIN (No. 10,) SHEIKH TEENOO AKHAND (No. 11,) SUMURUDDEE (No. 12,) MON GAZIE (No. 13,) CHEETOO THAKOOR (No. 14,) MASSIM (No. 15,) DHON GAZIE* (No. 16,) NOOR BUX (No. 17,) AND MADUB DEO (No. 18.)

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Case of RAMSHURRUN GHOSE and others.

The prisoners were convicted of riot attended with arson, in which one person was severely burnt and another wounded, and a large amount of property plundered. The Court sentenced one prisoner to fourteen years' imprisonment and confirmed the sentences passed on the other prisoners by the sessions judge.

CRIME CHARGED.—Riot attended with arson, in which Beehu was severely burnt, and Allimuddee wounded, and property to the amount of about Rs. 3,208-9-6, plundered and destroyed.

Committing Officer.—Mr. F. B. Simson, officiating joint-magistrate of Noakolly.

Tried before Mr. H. C. Metcalfe, sessions judge of Tipperah, on the 23rd July, 1855.

Remarks by the sessions judge.—This very serious and aggravated riot appears to have originated in a dispute between the prosecutor and the prisoner, Gopee Ghose, (No. 2,) relative to a two annas share of an Hawallah called at present Teenoo and Tumeezuddee. The prosecutor claims to have purchased this two annas share from the widow of the late proprietor of the *talook* Sumuruddee, whereas the prisoner Gopee Ghose claims to hold the entire sixteen annas in farm under a lease granted by Sumuruddee's sons, Teenoo and Tumeezuddee. The prosecutor appears to have attached some buffaloes belonging to the prisoner, Mahubooddee (No 10,) for a balance of rent. The attachment passed of quietly, but when the circumstance became known, the prisoners headed by Gopee Ghose (No. 2,) and his son, Ramshurn Ghose (No. 1,) and accompanied by a large body of armed men proceeded to the prosecutor's house to release the buffaloes. A riot ensued, the prosecutor's house was broken into and plundered, boxes containing, it is stated, cash and jewellery were broken open and their contents carried off, a person, named Allimuddee, was knocked down and speared, another, Hossein, was slightly wounded on the head, and a third, Beehu was thrust among the burning remains of one of the

* Acquitted by the lower court.

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eleven houses destroyed by fire. The wound inflicted on Alimuddee was a most severe one, so much so indeed, that it appears wonderful how he escaped instant death. The spear entered the left side, close to the heart, severing the right rib which remains disunited. The medical officer deposed that a very little more difference in direction might have proved fatal. The man, Bechu's back, from the shoulder downwards to the end of the thigh, was most severely burnt, and appears even now scarcely healed, although the injury occurred four months ago. The civil assistant surgeon deposed that these extensive burns "might have been fatal by causing effusion on the chest." Ramshurn Ghose, (prisoner No. 1,) inflicted the spear wound, and his father, Gopee Ghose, (prisoner No. 2,) appears to have been the person who thrust Bechu into the flames, Reazuddee, (prisoner No. 6,) and Gopee Ghose, (prisoner No. 2,) were the individuals who set fire to the premises. The riot ended by the prisoners carrying off the prosecutor and his brother to the house of the prisoner, Madub Deo, (No. 18,) from which they were released by Koodrutullah (witness No. 17,) a thannah burkundaz.

Six eye-witnesses deposed to the riot having occurred in the manner I have stated.

In addition to this evidence, there were six witnesses who deposed to the circumstances of the case, among them the wounded man Hossein, and the burkundaz, who released the prosecutor and his brother from their illegal duress.

The prisoners made one and the same defence, *alibi*, and some of them called each two witnesses to establish this plea. Although upwards of four months had elapsed since the occurrence took place, and none of these witnesses (with three exceptions) had been intermediately called upon by the prisoners to depose in their defence before the magistrate, they, as usual, deposed to the hour, day and date on which, at one place or another, they had seen the prisoner, on whose behalf they were summoned. Their evidence was at once flimsy and incredible, and I had no hesitation in rejecting it as unworthy of any credit. Two only of the prisoners have been in *Hajut*. The rest were at large on security and doubtless availed themselves of the opportunity thus afforded them to tutor the witnesses they proposed to call.

The Mahomedan law officer considered the guilty participation of all the prisoners in the riot to be proved, with the exception of the prisoner No. 16, Dhon Gazie, whom he acquitted from deficiency of proof, and declared them liable to *tazeer*. In this finding, I concur.

Should the Court concur in opinion with the Mahomedan law officer and myself as to the prisoner's guilt, I beg that they will pass such sentence upon the prisoner, Ramshurn Ghose, (Gopee Ghose being dead) as they may consider, to meet the merits of

the case. On the remaining prisoners I passed the sentence of seven years' imprisonment with labor and irons, but execution thereof is kept in abeyance, pending the Court's order.

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With reference to the fines inflicted under Act XVI. of 1850, I must observe, that the contents of the boxes said to have been broken open by the prisoner were deposed to by none of the witnesses from personal knowledge. The prosecutor and his brother alone speak of gold mohur, rupees, and jewellery, and I am not of opinion that their unsupported statements would justify me in considering it proved that such were indeed the contents of the boxes; gross exaggeration of the amount of property plundered or destroyed is so universal in cases of this description, especially since Act XVI. of 1850 was passed, that much caution is necessary when calculating the amount at which prosecutors are entitled to redress in the form of fines on prisoners.

Calculating however the value of the property which it appears to me was really plundered and destroyed by fire. (a list of which I have annexed to the *nuthee*) I find it to amount to Rs. 955-1-8, and this sum I propose to distribute among the prisoners in what I conceived to be equitable amounts.

Ramshurn Ghose, prisoner No.	1,	Rs. 200 each
Gopee Ghose,	2	
Gungaram Deo,	3,	Rs 36-9-8 each
Poran,	4,	
Pandub Deo,	5,	
Reazuddee,	6,	
Nussuruddee,	7,	
Allimuddee,	8,	
Rubeeoollah,	9,	
Mahubooddin,	10,	
Teenoo Akhand,	11,	
Sumuruddee,	12,	
Mon Gazie,	13,	
Cheetoo,	14,	
Massim,	15,	
Noor Bux,	17,	
Madub Deo,	18,	

Remarks by the Nizamut Adawlut. (Present. Sir R. Barlow, Bart., and Mr. H. T. Raikes) The sessions judge has given a very detailed account of the disputes which gave rise to this attack on the prosecutor's house. The plaintiff himself, and two of the witnesses, who were wounded, recognised and at once named the prisoners at the thannah, and several witnesses have, also, before the magistrate and in the sessions court, identified the prisoners, with whom they were previously acquainted, as parties in the attack. The defence, usually set up, is *alibi*; and each witness remembers the exact period at which he saw the person, who cites him to prove his *alibi* at some particular place

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on some special occasion. The sessions judge and law officer distrust the evidence for the defence and convict the prisoners as stated in the prescribed column. We concur in the conviction of the prisoners and in the sentences passed upon them, severally, by the sessions judge, and reject the appeals preferred. With reference to the prisoner referred (No. 1,) we sentence him to (14) fourteen years' imprisonment with labor and irons.

SUMMARY CASE.

PRESENT:

SIR R. BARLOW, BART., AND H. T. RAIKES, ESQ., *Judges.*

JOYNATH

versus

RUZEE AND TOBIEMEAH.

Sylhet.

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Case of RUZEE and another.

The Court quashed the proceedings of a magistrate who had punished two persons for fraud, they having sold the same parcel of land to two different persons. The second purchaser was referred to the civil court for his remedy.

This case was referred to the Nizamut Adawlut, under Section 5, Act XXXI of 1811, and Circular Order dated 18th March, 1842, by Mr. F Skipwith, sessions judge of Sylhet, on the 25th July, 1855, with the follwowing report.

Joynath and others purchased some lands from one Ruzeh, which were discovered by him to have been previously made over to Tobiemeah, defendant, and to the deed of sale, Tobiemeah became a witness.

Joynath and others, in consequence, prosecuted the prisoners for fraudulently selling the lands, knowing that they had been previously disposed of, and the superintendent of Cachar, convicting Ruzeh of the fraud and Tobiemeah of being an accomplice, has sentenced the former to four months' imprisonment and the latter to two months' imprisonment.

The punishment is, in my opinion, illegal, the case being one for the decision of a civil court only, and I therefore beg to recommend that the sentence passed by the superintendent of Cachar be reversed.

The case was sent for by me on perusal of the monthly statements.

Resolution of the Nizamut Adawlut.—(Present Sir R Barlow, Bart , and Mr. H. T. Raikes) No 885, dated 29th September, 1855.

The Court, having attentively perused the papers of the case, observe that the charge is not for obtaining money under false pretences, which alone could justify cognizance of the criminal court, but a charge preferred by a second purchaser against the vendor of the same land The case therefore involves questions of a civil nature The Court, under the circumstances of the case, and, the recommendation of the sessions judge, direct that the order of the superintendent of Cachar be reversed.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT

versus

BISSONATH HAJRAH (No. 7,) GUDDYE DHAOOREAH (No. 8,) KALLEEPERSHAD HAJRAH (No 10,) GOPEE BEARA* (No. 9,) ORDHUBNATH* (No 11,) AND KALLEE MULLICK (No 1, APPELLANT)

Cuttack.

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Case of KALLEE MULLICK and others.

In a case of dacoity, the sessions judge, on the mere view of the record, ordered the magistrate to commit a prisoner, who had been made an approver by the magistrate, and eventually convicted him. The Court held that the sessions judge had exceeded his authority, as he can only annul an offer of pardon made by the magistrate to a prisoner, when the person pardoned, in his evidence, has wilfully concealed anything, or given false evidence or information, with a view to the conviction of an innocent party.

CRIME CHARGED.—1st count, dacoity attended with wounding in the house of the plaintiff, Poorsuttum Mundul, and plundering property to the value of Rs 1,327 15-10, 2nd count, aiding and abetting in the above crime; 3rd count, Nos. 7 and 8 knowingly receiving and having in their possession property acquired by this dacoity.

CRIME ESTABLISHED.—Nos. 7 and 8, being accomplices in a dacoity, attended with wounding in the house of Poorsuttum Mundul, and receiving part of the stolen property, and No. 10, being an accomplice in the said dacoity.

Committing Officer.—Mr. V. H. Schalch, officiating magistrate of Balasore.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 11th July, 1855.

Remarks by the sessions judge.—The particulars of this case are as follow.

The prosecutor's house, which is situated within one mile of the Balasore thannah, was attacked at about 2 o'clock in the morning of the 25th March, by about ten or twelve dacoits and plundered of property, valued at Rs. 1,327-15-10, but no information was communicated to the thannah until 7 o'clock, when Rampershad Mundul, the son of the prosecutor, a lad of fifteen years of age, is represented to have reported that he recognized among the dacoits a person of the *tantee* or weaver class, a resident of Bunpareeah, who had brought *dhan* to the house for sale about fifteen days previously, and that he suspected the bad characters who reside at the said village of Bunpareeah and at Birooah, though it appeared on investigation that he himself had never been at the said village.

According to the above information, the darogah went to Bunpareeah, searched the houses of Gopee Beara, Ordhubnath and others, but found nothing which the prosecutor, or those of his family present claimed, and *after the search* Rampershad Mundul charged Ordhubnath with being the person whom he identi-

* Acquitted by the lower cour

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fied at the time of the dacoity. Gopee Beara and Ordhubnath both denied they were in any way concerned in it.

No further trace of the dacoity having been found, the magistrate on the 26th March, issued an order to the darogah directing him to offer a reward of Rs. 100, to any person who would give information that would lead to the apprehension of the dacoits and the recovery of the property, and likewise a free pardon *and a reward of Rs.* 100 ! ! ! *to any dacoit* that would point out his accomplice with the property. And on the receipt of this order the darogah instead of waiting the spontaneous effect of it, sent for Bhugwan Pandeh, witness No. 33, who is a notorious bad character and released convict and communicated the purport of it to him, and he the following day went to the thannah accompanied by Gungoo Barrick, witness No. 34, who stated that he again had heard from a third party, Nukool Mullick, witness No 32 (who was not sent for, till many days afterwards) that he had seen some ornaments in the basket of (his sister) Musst Mohundhee, the mother of Guddye Dhaooreah, prisoner No 8, when she came to his house from Biroosh, about the time of the dacoity. The darogah then took the said Bhugwan Pandeh and Gungoo Barrick before the magistrate, but what then transpired the record of the case does not show. The darogah next proceeded to the house of Guddye Dhaooreah, at mouzah Chassahkund, when Guddye Dhaooreah and Kallee Mullick with some others were seen to jump over a half built wall and abscond into the jungle: and on searching the house a *chudder*, *dhootee*, and a *mirjye* were found concealed under some seeds and a broken earthen pot, and the jemadar was deputed to search the house of Kallee Mullick, but found nothing there belonging to the prosecutor; and on the afternoon of the same day Guddye Dhaooreah having returned to his house he was arrested and as he was seized, a *butooa* or purse containing Rs. 4, some old keys, a ring with a stone in it and some other small articles fell from his waist. The three first of which the prosecutor claimed and the prisoner, on the other hand, at that time stated they were all his own, but on the following morning the darogah having got information that he, the said Guddye Dhaooreah had sold some silver ornaments to the witnesses Nos. 37 and 38, he searched their houses and found the said ornaments, and was told by them that they purchased them from the prisoner and his father, Pooree Dhaooreah, after which Guddye Dhaoorea stated that they were given to him by Kallee Mullick, who said he had brought them from Balasore and told him to sell them for him, and that he, the prisoner, had given Kallee Mullick Rs. 3, out of the sale proceeds, and kept the remaining Rs. 4, which were found in his possession, by his order for him, and he further stated that the *dhootee, chudder* and *mirjye* found in his house were likewise placed there by Kallee Mullick

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The following day, the 1st April, the said Kallee Mullick was *brought* before the darogah, (though an attempt has been made to make it appear that he attended of his own accord) and he stated that he committed the dacoity in company with Gopee Beara, Guddye Dhaoorcah, Ordhubnath, Bissonath Hajrah, Kalleepershad Hajrah and others. On the 3rd and 4th of April, Bissonath Hajrah and Kalleepershad were apprehended, and they likewise made confessions accusing the other prisoners as their accomplices, and a silver chain, which Bissonath Hajrah stated he got as his share of the plunder, was found in the possession of Gungoo Patar, witness No. 36, to whom it was sold by Lokenath Mharna, with whom the prisoner deposited it, to have it altered.

The mofussil and foujdary confessions of the prisoners, which are too lengthy to record in this place, will be found with the record. They were proved by the attesting witnesses to have been voluntarily made.

The witnesses for the prosecution deposed generally to the facts of the case as per calendar. The principal condemnatory evidence against the prisoners consisting of their own confessions, the testimony of the subscribing witnesses thereto, and that of the parties with whom the different articles of property were deposited by the prisoners, the last class of whom, in consequence of their having denied having in their possession the said property when it was first demanded from them, might justly have been held amenable to the law, as receivers of stolen property; but the magistrate acting up to the letter of his order of the 26th March admitted them as witnesses.

Kallee Mullick, prisoner No. 1, of the magistrate's supplementary calendar for the month of June last who, according to his own confession, was one of the principal parties who committed the dacoity, was also included among the list of witnesses, having received a conditional promise of pardon from the magistrate. But this court with reference to the general provisions of Regulations X. of 1824, and I. of 1829, under which magistrates are authorised to offer pardon to accomplices, and the tenor of the instructions contained in paragraph 2, of Circular Order, No. 4, of the 2nd January 1854, deeming not only that the tender of pardon to the said Kallee Mullick was injudicious and made in contravention of the provisions of Regulation X. of 1824, but that the said Kallee Mullick had forfeited all claim to the profferred pardon, in consequence of his not having fulfilled the condition on which it was tendered, refused to record his evidence on oath, and directed that he be committed for trial on the original charge of dacoity.

The reasons of this court, for declining to record the evidence of the said Kallee Mullick on oath, will be further seen on referring to the letter addressed to the officiating magistrate of Balasore

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on the 4th June, in reply to his letter No 54 of the same date, copies of both of which will be found with the record.

All three prisoners pleaded not guilty before this court.

Bishonath Hajra, prisoner No 7, states that the silver chain which he placed in charge of the witness No 35, was given to him by Soolochun Mundul, witness No 6 the brother of the prosecutor who told him to place it with some person and he would cause his, the prisoner's, apprehension, when he was to accuse certain persons whom he, the said witness, would indicate and that if the darogah forwarded him to the foujdary, he would procure his release thence He further states that the darogah beat him and likewise kicked him to accuse others, stating that he would *be released and receive a reward of Rs* 100 And that he was at home on the night of the dacoity

The prisoner cited two witnesses in support of the above statement, but they deposed that they knew nothing about the matter

Guddye Dhooreeah, prisoner No 8, states that the articles of clothing found in his house as well as the rupees, ring with stone, and keys which were found in the *butooa*, or purse, which fell from his person at the time he was arrested, are his own property, that the silver ornaments found in the possession of witnesses Nos 37 and 38 to whom he sold them for Rs 7 were given to him by Kallee Mullick prisoner, No 1, of the supplementary calendar (who was admitted as approver by the magistrate and was committed by order of this court) for the purpose of selling them that he gave Rs 3 out of the sale proceeds to Kallee Mullick and that he kept the remaining Rs 4 by him, at the request of the said Kallee Mullick, that he was at home on the night of the dacoity and that he was beat by the darogah to make him confess and accuse others, but he refused to do so

The prisoner cited three witnesses to prove the above facts, one of whom, his brother generally supported his statement, another, his cousin stated he was at home on the night of the occurrence, and the third who is unconnected with the prisoner, but is his neighbour, stated that he knew nothing about the points he was required to depose to.

Kalleepershad Hajra, prisoner No 10, states that he was at home on the night of the dacoity, that he was arrested at Bemreah at the house of Purkhit Mahapatter where he had been fifteen days previously thrashing *dhan* and was taken thence to the Balasore thannah, where he told the darogah he knew nothing about the dacoity, that the darogah then told him to accuse the persons whom he would name to him, and that on his persisting he knew nothing about dacoity, the darogah beat and maltreated him and wrote according to his own pleasure. That Bishonath Hajra, prisoner No 7, (his brother) bore him enmi-

ty, and that he did not know Kallee Mullick, the individual before named, who had named him as one of the dacoits.

The prisoner named two witnesses to prove that he was at Bemreah thrashing *dhan* at the time of the dacoity, one of whom stated that he was at his house at Bemreah two and a half *coss* distant from Beroosh where the dacoits are said to have assembled, prior to setting out to commit the dacoity on the night of the occurrence. And the other witness stated that he did not know where he was.

Decision of the sessions judge in this case recorded in conformity with Act XXXIII. of 1854.

The fact of Bishonath Hajra, prisoner No. 7, having gone in company with the other dacoits to commit the dacoity in the house of Poorsuttum Mundul is proved by his own confession before the police darogah and the magistrate, and the finding of a silver chain which he received as part of his share of the plunder at his indication in the possession of Gengoo Pattur, witness No. 36. And the same offence is also proved against Kalleepershad Hajra, prisoner No. 10, by his confession before the police and the magistrate. It further appears that the said two prisoners, being connections of the prosecutor and having opportunities of going to his house, were employed by the other dacoits to get trace of the property. And not only are the facts of Guddye Dhaooreah, prisoner No. 8, having received a silver *banko* and some pieces of a *poinchee*, the property numbered 9 and 10 plundered in the dacoity, and having sold them to the witnesses Nos. 37 and 38, and of the clothes numbered 1, 2 and 3, having been found in his hut proved, but the general facts of the case, viz., his going to the house of Nukool Mullick, witness No. 32, with Kallee Mullick, prisoner No. 1, of the supplementary calendar and enquiring after his mother, Mohimdhee, who had just been there with some of the plundered property; his absconding from his own house in company with Kallee Mullick on the arrival of the darogah; his admission that the 4 rupees found on his person at the time of his apprehension was part of the proceeds of the article given to him by the said Kallee Mullick to sell, and his being implicated in the confessions of the other prisoners, afford violent presumptive proof that he took an active part in the dacoity itself.

I therefore convict the prisoners Nos. 7 and 8, of being accomplices in the dacoity attended with wounding and receiving part of the plundered property, and the prisoner No. 10, of being accomplice in the dacoity, and sentence them each, with reference to their ages, which are about 20, 24, and 17, respectively, to seven years' imprisonment with labor in irons.

With regard to Gopee Beara, prisoner No. 9, though he is said by the confessing dacoits to have been one of their Sirdars, and the prosecutor and his witnesses state that the *rikabee*,

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cattoree and broken ring and the stone appertaining to it which were found in his house and alleged to have been covered over with some tobacco leaves belonging to the prosecutor, I do not consider that either the fact of the said articles being the property of the prosecutor, or their having been concealed in the manner alleged, is at all satisfactorily proved. The articles in question are not capable of strict identity even if they were his. Moreover they were not claimed by the plaintiff until the prisoner's house was searched a second time. But be the case what it may, with respect to the ownership of the said articles, the prisoner as well his neighbours and others, who out-number the witnesses cited by the prosecutor, state they belong to the prisoner. And I am inclined to credit the evidence for the defence in preference to that of the prosecution, because the wife of the prisoner, who could not have seen the ring and the stone appertaining to it more than once or twice *before* they were taken charge of by the police, and never *afterwards* until she appeared before this court if they had really been stolen from the prosecutor's house, could not possibly have identified and selected them from among other articles, but on being told to look and see whether any of her property was among the articles before the court, she, without hesitation, selected the *ring* or the two parts of it, for it was broken, as well as the stone appertaining to it, though there were two or three cornelian stones of the same description lying by the side of it, and likewise the *rikabee* and *cattoree*, and claimed them as her's or her husband's property. It is, moreover, highly improbable that if Gopee Beara was the Sirdar dacoit he is represented to be, he would have placed the said articles, the value of which is only a few annas, in his house just by way of furnishing means for his own detection while he carefully removed to a distance all the more valuable plunder. For these reasons, I am of opinion that there is no reliable proof whatever that Gopee Beara was concerned in the dacoity.

As regards Oordhub Nath, prisoner No. 11, there is not a particle of evidence against him, Rampershad Mundul, witness No. 1, merely stated that he was the individual he recognised at the time of the dacoity *after the darogah had searched his house on general suspicion*, and such a recognition is altogether inadmissible. And though the confessing prisoners named him as their accomplice, it is impossible to say whether they did so spontaneously, or whether they were not instigated to do so by other parties. The witnesses, cited both by Gopee Beara and Oordhub Nath, deposed that they were both at their houses during the whole of the night of the occurrence, viz. the 13th Chitroo. It is therefore ordered that they be acquitted and discharged, and that the property found in Gopee Beara's house be restored to him.

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The crime of being an accomplice in the dacoity and having in his possession rupees 2, the sale proceeds of a portion of the plundered property is proved against Kallee Mullick by his confession before the police and the magistrate, and his admission before this court. And although he states that he confessed before the police and the magistrate under a promise of pardon, I do not consider that such a promise was legal or justified by the circumstances of the case. And whether it was legal or not, the prisoner forfeited his right to his *conditional pardon* by concealing and denying that Guddye Dhaooreah, whom he had previously accused in both his confessions of being one of the principal dacoits, (and to compass whose conviction he had been offered the pardon) was one of the party who committed the dacoity. He having evidently done so, if there is any truth in any of the confessions or the proceedings of the police in this case, because he and the said Guddye Dhaooreah were intimately connected or were co-partners in the dacoity, as is shewn by the statements of the said Guddye and his Kallee Mullick's having absconded from the house of Guddye Dhaooreah on the arrival of the police to enquire into the dacoity. It is, therefore, ordered that he be sentenced to seven years' imprisonment along with the other prisoners

It is further ordered, that instructions be issued to the magistrate, in conformity with Act XVI of 1850, to attach and sell any personal property that can be found belonging to the convicted dacoits for the purpose of remunerating the prosecutor for the loss incurred by the dacoity.

In connection with the foregoing report, I have the honor, in conformity with my promise, made to the officiating magistrate of Balasore, to call the Court's attention to the correspondence dated the 4th June, which passed between that officer and myself regarding the commitment of Kallee Mullick, which will be found filed with the record.

The officiating magistrate appears to be under the impression that I had no authority to direct the commitment of an individual to whom he had tendered a pardon, without first examining him on oath, but in his zeal to put a stop to the crime of dacoity in his district, he would appear to have lost sight of the fact that there were conditions attached to the promise made by him to the individual in question, which he immediately violated, and showed by his recantation of his accusation against Guddye Dhaooreah, to compass whose conviction he was solely, according to the officiating magistrate's *roobakarree* of the 26th April last, offered a pardon, that to record his evidence would be perfectly futile. For if he had accused the said Guddye Dhaooreah unjustly in his confessions, it was I think to be inferred, as a moral certainty, that he had in like manner accused the others. And, if any reliance whatever can be placed on the

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proceeding of the police in this case, there can, for the reasons stated in my decision, exist little doubt that Guddye Dhaoorea took an active part in the dacoity, and consequently that Kallee Mullick when examined by the officiating magistrate under a promise of pardon deposed falsely, and concealed his knowledge of the facts of the case.

I cannot but consider that the act of the officiating magistrate in admitting Kallee Mullick as an approver, and more especially his recording his confession under a promise of pardon, as certified by himself at the head of his confession, highly injudicious and wholly unauthorised by any law or regulation. The prisoner's answer should have been in the first place recorded, whether he denied or confessed the charge laid against him, and if the magistrate afterwards thought proper to tender a pardon to him he could have done so.

The fact of the magistrate having *directed the police to offer a reward of Rs. 100, in addition to a pardon, to any dacoit* who would give information to convict his accomplices, is a proceeding totally novel and unheard of

The officiating magistrate has manifestly, if I am not much mistaken, far exceeded the limits, Mr. Samuells the Superintendent of Police intended he should have done in the matter of offering pardons and rewards, and I feel certain that the superior Court will support my own view of the case, that such means of obtaining convictions should be adopted with the greatest caution and as seldom as possible The orders of Mr. Samuells, under which the magistrate considered he was acting, are quoted in the margin.*

The existence of such a order, as that issued by th magistrate, and the abuse i was subject to, in the hands c a corrupt and unscrupulou police, had very nearly induce me to acquit all the prisoners but as it is so difficult to pro cure convictions in dacoity cases, I did not think myself alto gether justified in doing so, as in addition to the confession made before the officiating magistrate, it appeared from th admission of Kallee Mullick before this court, and also from th fact of Kallee Mullick and Guddye Dhaoorcah, having gone t

* Para 5th. I should also wish to know what are the measures you have adopted with a view to check the crime of dacoity in your district. In the course of my own experience, I have found that nothing breaks up those gangs so certainly as the practice of admitting one or two of the members when apprehended as approvers. It destroys their confidence in one another and renders most of them, when apprehended, anxious to confess and point out the property lest they should be forestalled by their comrades.

Para. 6th. You will also find liberal rewards to such of the police, as distinguish themselves, and to every person who gives you information which proves of any service to be indispensable, in order to secure hearty and effectual co-operation from your subordinates, and the people generally; you may always depend upon my support in this matter.

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the house of Nukool Mullick, in search of the mother of the said Guddye Dhaoorcah, after she had just been there with some silver ornaments which it is to be inferred was part of the plundered property, that they were concerned in the dacoity; and if the prisoners confessed before the magistrate for the purpose of inculpating others, they merited the punishment they thereby brought on themselves.

Whether I was right or not in ordering Kallee Mullick to be committed without first recording his evidence on oath, the Court will decide, I have already recorded my reasons for doing so, and I have only to add, that there is no law which directs that an approver, who has not conformed to the conditions under which a pardon was tendered, should be examined on oath before an order for his commitment is issued. All that Clause 1, Section v, of Regulation X. 1824, states on the subject is this, "should it appear on *evidence* that such person has not conformed to the condition under which pardon was tendered," &c., and I did not direct the commitment of Kallee Mullick until I had completed my investigation of the case connected with the other prisoners, and consequently I had abundance of evidence before me to show that he had not conformed to the condition of his pardon.

Remarks by the Nizamut Adawlut. -(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) This case was brought to the notice of the Court by the commissioner of circuit, Cuttack, in his letter No. 13,* dated 23rd June last.

* *From the commissioner of circuit, Cuttack division, to the register Sudder Nizamut Adawlut, No. 13, dated the 23rd June*, 1855

With reference to the annexed correspondence, between the sessions judge of Cuttack, and the officiating magistrate of Balasore, I have the honor to request that you would draw the Court's attention to the case of dacoity recently reported by the judge, in which Bishonath Hajra and others have been convicted, and in which, as it appears to me, the sessions judge has illegally ordered the committal of an approver, whom the magistrate had pardoned, with a view of securing his evidence against his accomplices in the sessions court.

Under Section 7, Regulation I, of 1829, the magistrate is authorized to tender a pardon in such cases on his own responsibility. The Nizamut Adawlut, under Clause 3, Section 5, Regulation X. of 1824, may annul the magistrate's orders, if they consider that the pardon has been granted on insufficient grounds; but the sessions judge's power of ordering the commitment of an approver is expressly limited by Clause 1, Section 5, of the same Regulation, to cases in which the approver does not conform to the condition under which the pardon was tendered.

That condition in this case is that the approver should give true evidence against his accomplices in the sessions court, but the judge, it would seem, has given him no opportunity of doing so, and has invaded the province of the sudder Court by quashing the magistrate's orders on view of the proceedings.

The judge quotes, as his authority, Clauses 4 and 5, Section 3, Regulation X. of 1824; but I cannot perceive that these clauses have any bearing

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The proceedings of the case were accordingly sent for by the Court, and the prisoner, Kalleo Mullick, himself appealed on the 12th July last. The case is now therefore judicially before the Court.

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on the question. The judge is not the superintendent of police, and indeed the powers vested in the superintendent of police, by the clauses in question, have been withdrawn by Section 7, Regulation I. of 1829.

I would respectfully move the Court to quash the judge's conviction in this case (for the approver has been sentenced to seven years' imprisonment) and to direct the man's release.

From the officiating magistrate of Balesore, to the sessions judge of Cuttack, No. 51, dated the 1th June, 1855

I have the honor to inform you, that I have this day committed the prisoners on a charge of dacoity attended with wounding, as directed in your *roobakaree*, dated the 2nd instant.

The prisoner and witnesses will be in attendance this day at 11 o'clock.

I beg however, most respectfully, to submit, for your consideration, the following points connected with this commitment.

Your *roobakaree*, as far as I can judge from its tenor, directs the commitment on the ground of my order, admitting the prisoner to give evidence, being injudicious, for it is therein stated that it does not appear likely that from his evidence any other person, implicated in the dacoity, could be apprehended or convicted, or any of the stolen property recovered, that besides this, the crime is proved against the prisoner, Guddye Dhaooreah, that for these reasons, according to Regulation X. of 1824, Sections 4 and 5, Clause 5, my order, offering the prisoner a pardon, cannot be approved.

Now I beg to observe that by Regulation X. of 1824, Section 3, Clause 1, the magistrate is authorized to tender a pardon, without previous reference to any other authority, that, by Section 5, Clause 3, of that Regulation, the *Nizamut* Adawlut is competent to annul the order for a pardon, if it appears that the pardon has been granted on insufficient grounds; but that by Section 5, Clause 1, of that Regulation, it would appear that the sessions judge can only order a commitment where the person pardoned has wilfully concealed any thing essential, or given false evidence, or information, with a view to the conviction of an innocent party

I am therefore of opinion that a commitment made by a sessions judge, on the ground of the magistrate's offer of a pardon being injudicious, is contrary to Regulation above quoted.

Your *roobakaree* concludes by stating in addition to the above quoted abstract that the prisoner has, in contradiction to his former statement, stated that he by mistake mentioned the name of Guddye Dhaooreah, but his evidence does not appear to have been taken before the sessions, which appears to me to be necessary before an order for commitment can be made under Section 5, Clause 1, for wilful concealment or contradiction; the more especially as his evidence before me was not on oath, such being the rule laid down in Section 3, Clause 2, Regulation X. of 1824, and Circular No 4, Nizamut Adawlut, dated 2nd January, 1854, which Circular evidently requires the evidence to be taken on oath before the sessions previous to an order for commitment.

I am induced to urge this point for your consideration, because the annulment of the pardon granted by me in this case, even if it be injudicious, will effectually destroy all future confidence in any similar promise I may make, however judiciously, and will thus prevent my acting up to the instructions of the superintendent of police, as quoted in my letter No. 53, of the 30th ultimo.

We observe the prisoner could not be committed by the sessions judge, except under the provisions of Clause 1, Section 5, Regulation X. of 1824. He was not examined, nor was any evidence taken to prove that he had not conformed to the conditions under which he was pardoned by the magistrate. The sessions judge could not, on view of the record merely, even though that record did shew that the pardon was improperly given, direct the commitment of the prisoner and sentence him. His powers are restricted to commit under Clause 1, Section 5, of the Regulation above quoted. Being neither superintendent of police, nor empowered to interfere under the Clauses of Section 3, to which he refers, he has exceeded his competence, and his proceedings are therefore quashed: we direct the release of the prisoner.

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Referring to the sessions judge's remark "I cannot but consider the act of the officiating magistrate, in admitting Kallee Mullick as an approver, and more especially his recording his confession under a promise of pardon, as certified by himself at the head of his confession, highly injudicious and wholly unauthorized by any law or regulation. The prisoner's answer should have been, in the first place, recorded, whether he denied or confessed the charge laid against him, and if the magistrate after-

From the sessions judge of Cuttack, to the officiating magistrate of Balasore, dated, 4th June, 1855.

I have the honor to acknowledge the receipt of your letter No. 54, of this date, and in reply to inform you that, after giving full consideration to the arguments advanced by you against the commitment of Kallee Mullick, I see no reason to alter my own opinion regarding the correctness and expediency of the order directing his commitment.

I cannot agree with you that it is indispensable that a sessions judge should take the evidence of a person, to whom a conditional pardon has been offered by the magistrate, on oath before directing his commitment on the original charge on which he was apprehended, more especially when a sessions judge considers that it is shown by the record that a pardon ought not to have been tendered, or that the individual has not complied with the terms on which only a pardon could have been offered to him. In the present instance, it would be perfectly useless to examine Kallee Mullick on oath; for if he states on oath what he recorded before the magistrate preparatory to his being admitted as witness, he would only give evidence to acquit the party whom he was pardoned in the hope of convicting, and if he deposed otherwise, he would not be credited after the previous contradictory statement he had made.

The particular Sections and Clause of Regulation X. of 1824, cited in my *roobukaree,* were referred to in support of the argument which immediately preceded their recitation for considering the rejection of the testimony of Kallee Mullick necessary and I showed that, independently thereof, he could not be admitted as witness, because he had concealed or contradicted his previous statements inculpating Guddye Dhaoorah.

Copy of your letter under acknowledgment shall accompany my remarks, on the trial to the Sudder Nizamut Adawlut.

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wards thought proper to tender a pardon to him, he could have done so," we observe that the course pointed out by him should have been followed by the officiating magistrate.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

Midnapore. 1855. October 1. Case of MUDHOO PATTER.

GOVERNMENT

versus

MUDHOO PATTER.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Lieutenant C. H. Keighly, assistant general superintendent and assistant to the dacoity commissioner.

Prisoner convicted and sentenced under Act XXIV. of 1843.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 23rd July, 1855.

Remarks by the sessions judge.—The prisoner confesses before the assistant general superintendent, to his being a dacoit by profession and to having been concerned in nine different gang-robberies.

In this court he confirms those confessions, and declares them to have been made voluntarily.

The prisoner was sentenced by this court in August, 1854, to nine years' imprisonment as an accomplice in a dacoity, which sentence was affirmed by the superior Court.

The facts set forth in the confessions are corroborated by this trial and by two* others adverted to in the calendar, and seeing no reason to doubt their truth, I convict the prisoner of the charge on which he is arraigned and recommend that he be sentenced to imprisonment for life in transportation.

* Case No. 479. No. 6. Local investigation conducted by the darogah agreeably with the orders of assistant general superintendent, &c.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The Court convict the prisoner of the crime charged, and sentence him to imprisonment for life in transportation beyond sea.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS. *Judges.*

GOVERNMENT AND SHEIKH MAIDEE

versus

KULEEMOODDEEN (No. 5,) AND SHEIKH PANCHOO (No. 6)

Dacca.

1855.

October 1.

Case of KULEEMOODDEEN and another.

The prisoners were convicted of culpable homicide and sentenced as recommended by the sessions judge.

CRIME CHARGED.—Wilful murder of Sekunder.

Committing Officer.—Mr. H. C. Raikes, joint-magistrate of Furreedpore.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 17th July, 1855.

Remarks by the sessions judge.—The prosecutor stated, that his cattle trespassed on the fields of the prisoners, who came to his, the prosecutor's house, and abused him, and his brother, the deceased. Prosecutor entered his house followed by his brother, when Kuleemooddeen, who was armed with a *soolfi*, wounded the deceased, who fell, and while down, the prisoner, Panchoo beat the deceased, who shortly after expired.

Four eye-witnesses Nos 1 to 4,* corroborated the fact stated by the prosecutor.

* No. 1, Panchoo.
" 2, Myzooddeen.
" 3, Summeerooddeen.
" 4, Lusker Mirda.

The sub-assistant surgeon deposed to the cause of death, a spear-wound through the lower part of the back. The same witness likewise deposed to wounds on the person of the prisoner, Panchoo.

The prisoners pleaded *not guilty*. Kuleemooddeen gave another version of the murder, but it is in itself incredible, and his witnesses could not be credited. He first said he had no witnesses, but on the 9th June, discovered those who were examined on the trial.

The law officer convicted the prisoner Kuleemooddeen of the murder, and Panchoo as an accomplice.

If the eye-witnesses are to be implicitly believed, the crime proved is no doubt murder; but the mere fact that the prisoner Panchoo has severe wounds on his person, inclines me to think, that the affair partakes more of the nature of an affray. The witnesses deny there was any mutual assault, but the wounds received by Panchoo are quite unaccounted for. The prosecutor's cattle had twice trespassed on the fields of the prisoners, when Kuleemooddeen went, as he said in this court, to inquire into the matter. That he took a *soolfi* with him, does not, I think, argue an intent to commit murder, as it is unlikely that on such an occasion he would go without some weapon. Some abuse is admitted by the prosecutor and his witnesses, but if

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Case of KULEEMOODDEEN and others.

Kuleemooddeen struck the deceased down as stated, the wounds of Panchoo, the other prisoner, are still to be accounted for.

The prosecutor admits that his cattle trespassed twice on the fields of prisoners, and taking this circumstance, and the whole of the evidence into consideration, I would convict the prisoners of culpable homicide only, and sentence Kuleemooddeen (No. 5,) to seven years' imprisonment with labor and in irons, and Sheikh Panchoo (No. 6,) to one year, and a fine of thirty rupees in lieu of labor.

The Government having lately called for the opinion of the zillah judges in regard to an enactment to punish trespass by cattle, the Court may think it worthy of remark, that of six committals tried by me at Furreedpore, two were for homicide or murder arising from quarrels originating in the destruction of crops by cattle.

Remarks by the Nizamut Adawlut.--(Present: Messrs. H. T. Raikes and J. H. Patton) Although, as remarked by the sessions judge, the wounds on the person of the prisoner, Sheikh Panchoo, are not adverted to by the eye-witnesses or in any way accounted for, this is a matter of less consequence, as the prisoners were evidently the aggressors in this case, they having come to the house of the prosecutor and his brother and assaulted them on their premises. We concur with the sessions judge in considering that the offence established, amounts to culpable homicide only, and convicting the prisoners of that crime, sentence them, as proposed by the sessions judge.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT

versus

KHOODDOO.

Bhagulpore.

1855.
October 1.
Case of KHOODDOO.
Appeal rejected.

CRIME CHARGED.—Burglary and theft of paddy to the value of one anna.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. H. Richardson, officiating magistrate of Bhaugulpore.

Tried before Mr. W. Bell, sessions judge of Bhaugulpore, on the 15th June, 1855.

Remarks by the sessions judge.—This is a burglary committed within the jurisdiction of Dighee thannah, upon the 19th May last. It is proved by the prosecutor and witnesses that on the night of the occurrence, he was aroused from his sleep by a noise

and saw a man running away, he gave the alarm and pursued him, and the neighbours arrested the prisoner, a well known bad character. On bringing him back, it was discovered that an entry had been forced in the prosecutor's wall, and near the hole a *sindh katee* and some rice, taken from a heap inside the house, were lying.

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Case of KHOODDOO.

He pleads *not guilty* and says he was drunk and brings forward three witnesses, who all clearly prove him a notorious bad character, while the witnesses for the prosecution proved he was perfectly sober. It is on record that he was convicted of burglary on the 26th of March, 1849, and of leading his own nephew into crime. The jury find a verdict of guilty in which I agree, and sentence to five years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) I reject the appeal, as I find no reason to interfere with the sentence passed upon the prisoner.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT

versus

HUNNOOMAN TANTEE (No. 15,) AND CHUTTOO PASSEE (No. 16.)

Patna.

1855.

October 1.

Case of HUNNOOMAN TANTEE and another.

The conviction of perjury was affirmed on appeal.

CRIME CHARGED.—1st count, perjury in having on the 23d July 1855, deposed under a solemn declaration taken instead of an oath before Moulvee Mohummud Zuhoorallah, deputy magistrate of Patna that "my name is Hoolass and my father's name Oodit by caste a Passee," such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case; 2nd count, subornation of perjury in causing prisoner No. 15, to depose falsely as stated above.

CRIME ESTABLISHED.—Subornation of perjury against No. 16, and against No. 15 wilful and corrupt perjury on a point most material to the case.

Committing Officer.—Mr. W. Anslie, magistrate of the city of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 31st August, 1855.

Remarks by the officiating sessions judge.—On the 21st July 1855, Chuttoo Passee, prisoner No. 16, brought before the magistrate, in a petition, a complaint of assault against Beharee

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Singh, witness No. 1 and others. The magistrate ordered the witnesses named in the petition to be summoned,* and transferred the trial of the case to the deputy magistrate of Patna, Mohummud Zuhoorallah; but before the subpœnas could be issued, the prosecutor (prisoner No. 16,) himself produced his witnesses and prisoner No. 15, amongst them, under the name of Hoolass Passee of Nasreegunge; and in the presence of, and with the knowledge and concurrence of the prosecutor, prisoner No. 15's evidence was taken down on oath under that name and designation.

* Surubjeet of Nasreegunge.
Naimun of ditto
Hoolass of ditto
and three more.

The real Hoolass Passee of Nasreegunge (or Secondurpoor, the two places join one another and are in fact one,) is a witness, No. 7, against the prisoners, and says there is no other Hoolass Passee but himself at the place, and that he knows both prisoners well, prisoner No 16 also knowing *him* well; and he adds prisoner No 15 has never lived at Nasreegunge, and that his name is "Hunnooman Tantee"

Witnesses Nos 2 and 3 swear that prisoner No. 15 is not Hoolass Passee of Nasreegunge, but Hunnooman Tantee of old Dinapoor, and that they have known him from his birth. I have not examined witness No 1 Beharee Singh, as he was the person charged in the petition, and who brought the perjury to light. The three witnesses Nos 8, 9 and 10 testify to prisoner No. 15, having given his deposition on oath under a false name, voluntarily and knowingly, and to prisoner No 16 seeing and assenting to his doing so

Prisoner No. 16 declines examining his witnesses, and says in his defence he thought his brother prisoner was the person he stated; prisoner No 15 says his name *is* Hunnooman Tantee, and that prisoner No 16 brought him in an *ekah* from Dinapoor, and made him give his evidence drunk. He adds he does not know what he called himself or what he said before the deputy magistrate.

In concurrence with the law officer, I convict prisoner No. 16, of subornation of perjury and sentence him to five years' imprisonment with labor and irons, and prisoner No. 15, of wilful and corrupt perjury on a point most material to the case, and sentence him to three years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The parties accused of assault by the prisoner No. 16, had appeared to meet the charge, when the evidence, on which the perjury is based, was given. There are no grounds for interference, I reject the appeal.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

SHANOO MEEAH

versus

SUDDERDEE PRAMANICK (No 2) ZUMEER MEEAH (No. 3,) BUDERDEE KAREEGUR (No. 4,) KOMER-UDDIN (No. 5.)

Rajshahye

1855.

October 1.

Case of SUDDERDEE PRAMANIK and others.

The prisoners charged wit' wilful murde were acquitted owing to the untrustworthiness of the evidence, i being doubtful even if the death of the deceased was the result o violence.

CRIME CHARGED.—1st count, wilful murder of Bukshoo Meeah; 2nd count, being accessaries to the above crime; 3rd count, aiding and abetting therein; 4th count, privity before and after the fact.

Committing Officer.—Moulvee Abdool Jubber, deputy magistrate of Serajgunge.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 2nd July, 1855.

Remarks by the sessions judge The *futwa* convicts one of the prisoners of wilful murder, and second of aiding and abetting, and two more of being privy to the murder, and as I concur in this finding, the reference is unavoidable

The circumstances of the case, as elicited in evidence, are as follows

Sohazee, wife of Baroo Sheikh (witness No 2,) had a liaison with the prisoner No 3 The husband to put a stop to it, applied to the deceased, who was his friend for advice, and who recommended him to leave her and go home (He had married into the family and was living with the woman's relations Nos 2, 4 and 5 being her brothers and his brother-in-law) It was, however, afterwards agreed that the deceased should watch an opportunity and seize No. 3, the husband aiding him, when they would take him to the zemindar's cutcherry, and he would not then come again to annoy him.

To carry out this plot against No 3. the deceased seems to have placed himself among some plantain trees nea. Baroo's house; at night No. 3 came to the house, knocked at the *jamp* or door, and the faithless wife leaving her husband and child sleeping inside, went out to meet her paramour. They were immediately challenged by the deceased who was making a movement towards the door to call Baroo, when No. 3 threw a cloth or *gumcha* round his neck and giving it a twist brough him down on the ground. The woman made a rusn into th house which awoke her husband who going out, saw the pri soners Nos. 2 and 3, holding the deceased No. 2, by the *gumch* which was twisted round his neck, No. 3 had a rule (or shor

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club) in his hand and Nos. 4 and 5, was standing close by who said, we have finished or done for him.

In the mean time a neighbour by name Lalchand Kareegur, (witness No. 14,) came to the house as he says to get some fire, and saw the deceased lying dead and the four prisoners standing near the body They told him they had killed Bukshoo and on his saying the darogah would come and apprehend them, they replied, if he did, they would accuse Kinoo Beparee with whom the deceased had a dispute about land.

(This Kinoo, it may be as well here to mention, was the father-in-law of the prosecutor who again is the deceased's brother, and before the police, true enough, he was accused of the murder, not by the prisoners but by the woman Sohazee, who no doubt had been tutored by them what to say before the police arrived and who, likewise accused Lalchand of having a hand in the murder.)

Lalchand then left and he says told all he saw to the chowkeedar, (witness No. 15,) who, without going to see the corpse, reported at the thannah that it was found hanging to a tree.

This witness admitted seeing Lalchand before he went to the thannah, but added, he did not listen to what he had to say.

The next witness Haradhun Sircar, (No. 16,) deposed to finding the body hanging to a tree and heard the deceased had hung himself from Sanoo Meeah and Lalchand, when he gave intimation to the naib and he to the police. The witness then described the appearance of the body and added, he did not think deceased had hung himself, some one must have murdered him. He also deposed that Lalchand had been apprehended on the information of Sohazee, and that he (witness) knew of no enmity between him and Bukshoo, the deceased. This witness also deposed that the mark round the neck, he considered, must have been there before the body was suspended to the tree.

No *post mortem* examination was held on the body, but the witness to the *sooruthal lash* attest it, and, from the appearances recorded therein, there can be no doubt the deceased died from violence and his body was afterwards suspended to a tree, to make it appear he had committed suicide.

No. 2 confessed both before the police and the deputy magistrate. In the former confession he admitted seeing the deceased murdered, and that he held his hands when he was beat by another person (named) and then he assisted to hang up the body to a tree.

Three very respectable witnesses numbered 8, 9 and 10, attested this confession as having been voluntarily made by the prisoner, and the two first pointed out their signatures to it.

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The confession before the deputy magistrate was not admitted as evidence, *first*, because the attesting witnesses seemed to know very little about it, and on reading it over, it was found, that to a question put to the prisoner he replied there was no truth in it whatever, and to another question that he had been tutored by a burkundaz to say what he had said. How the deputy magistrate could ever have imagined that such a confession could be received as evidence, I am quite at a loss to explain.

When called upon for his defence, No. 2 said, he had no enmity to the deceased, there was enmity between him and Kinoo Meeah, but three witnesses, examined by him, knew of none.

No. 3 pleaded he was sleeping at his employer's house. His witnesses, however, did not prove the *alibi*. Two identified the rule, or short club, produced in court, as the prisoner's property.

Nos. 4 and 5 set up the same defence, that they had no enmity towards the deceased, and this their witnesses proved.

There can be no doubt No. 3 was retained as a *lattial* by Ramcumul Naug, to enforce the payment of money due to him, and these men are commonly called *takazygers*. He is a short stout man. And it will be remarked by the Court that the prosecutor, as well as witness No. 16, deposed the deceased was a more powerful man, and could not have been overcome by the prisoner alone.

This leads to the inference that some one else must have come to No. 3's assistance, after the deceased was thrown down, to hold him down; and the conviction in my mind arising from the evidence given by Baroo Sheikh is, that No. 2, was the person and this independent of the mofussil confession by the prisoner.

The next question is, if any one besides the witness No. 2, saw the deceased lying dead? I consider it fully proved, from his deposition, that Lallchand Kareegur did. He was first accused by Baroo's wife of being a *particeps criminis*, and evaded, but when the doubt or suspicion was cleared up, came forward and gave his evidence, and if any further proof is necessary as to his presence, it is supplied by the false accusation brought against him by the woman Sohazee at the instance, it may be assumed, of her paramour and brothers.

This woman has told so many stories, or given so many accounts of the transaction, that it is difficult to say what is truth, and what false. Her statement in this court was evidently given with reservation, and to screen her brothers, who she denied seeing at all, most unfortunately the child she had with her, and who, when she gave her evidence, was handed over to her husband, did nothing but cry; and she was always turning

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round towards the *verandah*, where the child was, or wanting to go to it, and gave her evidence in consequence in a very hurried manner.

Though not an accessary to the murder, there can be no question she was privy to it, and therefore some exception may be taken to her as a witness. If, what she has stated in this court is true (it is confirmed by what her husband and Lallchand deposed to seeing, *after* she came into her house) her paramour was the first to seize the deceased, and throw him down, and therefore, the presumption is strong that he was a principal in the murder.

Baroo's statement, together with the mofussil confession of No. 2, makes out the latter an aider and abetter in the murder. The evidence and confession are not concurrent, as to how No. 2 helped to hold down the deceased. Baroo says he held the *gamcha*. The prisoner confessed he held his hands, but at night it would be difficult for any one to say precisely how the person holding another down, held him.

That all three brothers Nos. 2, 4 and 5, were privy to the murder there can, I think, be no doubt.

The *futwa* against No. 3 is only *akoobut*, and as what he did must have been in the heat of blood, or when foiled in having illicit intercourse with another man's wife, with reference to former precedents of the Court, and especially that noticed, in the margin,* I think the prisoner should not undergo a more severe sentence than transportation for life, if the Court concur in his conviction.

As aiding and abetting in the murder, I would propose that No. 2 be sentenced to fourteen years' imprisonment with labor and irons. It is not improbable the other prisoner persuaded him to lend a hand to dispatch the deceased as he had come to intrigue with his sister, and if so, these were extenuating circumstances.

As being privy to the murder Nos. 4 and 5, I think should be sentenced to five years' imprisonment with labor and irons. There can be no doubt they were assenting to it; and afterwards must have assisted to carry and hang up the body to the tree where it was found, or discovered next day.

With this opinion, I beg to leave the case of the prisoners in the hands of the Court. They are all in jail.

Remarks by the Nizamut Adawlut.--(Present: Messrs. H. T. Raikes and J. H. Patton.) We consider that it would be very unsafe to trust to the evidence of Baroo Sheikh, the husband, against his wife's paramour Zameer, prisoner No. 3, although the wife, Sohazee, does not hesitate to implicate him as well as her three relatives, as concerned in the murder of the deceased,

* Government *versus* Mullik Muradali *alias* Muradun, Nizamut reports for 1851, p. 715.

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Beyond these witnesses, there is no evidence, but the statement of Lallchand, witness No. 14, and the confession of Suderuddeen prisoner No. 2. Lalchand, however, when first giving intimation to the deceased's brother of his death, withheld all knowledge of these suspicious circumstances, which he subsequently detailed to the police, and there is no apparent reason for his silence. Suderuddeen's confession is utterly untrustworthy as though purporting to be repeated at the foujdary, it was denied by him on the same day, when read over to him in presence of the deputy magistrate, to whom he stated that it was entirely false and been given merely at the instigation of the police. The death appears to have been suspicious, but there is no *post mortem* examination, and we are not even satisfied that the death was the result of violence. We acquit the prisoners.

PRESENT:

B. J. COLVIN, Esq. *Judge*.

GOVERNMENT

versus

MOOCHEERAM DHOBA.

Midnapore.

1855.

October 1.

Case of MOOCHEERAM DHOBA

The prisoner was convicted and sentenced under Act 24, 1843.

CRIME CHARGED.—Being by profession a dacoit, and having belonged to a gang of dacoits.

Committing Officer Lieutenant C. H. Keighly, assistant general superintendent and assistant to the dacoity commissioner.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 28th July, 1855.

Remarks by the sessions judge.—The prisoner is charged with being a dacoit by profession and having belonged to a gang of dacoits.

A promise of pardon was tendered to the prisoner on condition of a full and true confession, which he made accordingly.

In his confession before the assistant superintendent, he declares he has been concerned in nine separate acts of dacoity. He affirms this confession in this court and it is corroborated by the documentary evidence noted in the margin,* and by a sentence of this court to nine years' imprisonment for dacoity in the month of January, 1855.

I accordingly convict the prisoner of the charge preferred against him, and recommend that he be sentenced to imprisonment for life in transportation.

* Case No. 477, dacoity in the house of Ram Sadoy.

No. 509, papers connected with the dacoity in the house of Bissembhur.

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October 2.

Case of MOOCHEERAM DHOBA.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) Seeing no reason to doubt the truth of this confession, I convict the prisoner of the crime charged and sentence him to imprisonment for life in transportation beyond seas.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

Midnapore.

SOOBUL KHARIAH.

1855.

October 2.

Case of SOOBUL KHARIAH.

The prisoner was acquitted of the charge of murder in the prosecution of theft there being no evidence corroborative of the single statement of the deceased as to the prisoner's identity.

CRIME CHARGED.—Murder in the prosecution of theft, in having on the night of the 22nd June, 1855, stolen some jack fruit, valued at two annas, belonging to the deceased, Bimlee, and upon her screaming out, so struck her with a battle-axe, that she died from the effects thereof, in the jail hospital of Midnapore, on the 6th July, 1855.

Committing Officer.—Mr G. Bright, magistrate of Midnapore.

Tried before Mr W. Luke, sessions judge of Midnapore, on the 30th July, 1855.

Remarks by the sessions judge.—It is in evidence that on the night of the 22nd June, the deceased, Musst. Bimlee *alias* Onjona was aroused by the noise of the fruit of a jack-tree close to her house falling to the ground. She went out to ascertain the cause and saw three men standing under, and one on, the tree, she inquired what they were about when one of them, the prisoner, approached her and struck her a blow with an axe on the left side of the head, inflicting a deep incised wound on the ear and cheek, and then made his escape. The cries of the woman, Bimlee brought the witnesses* to the spot to whom she related what had occurred, declaring at the same time that she identified the prisoner, Soobul Khariah, (with whom she was previously acquainted) as the person who assaulted her.

* Witness No. 2, Ram Digwar.
" " 3, Cuntahai Sirdar.
" " 4, Jeetoo Mirhatoo.
" " 5, Muddun Paik.

On examining the spot, the following morning two jack-fruits were found, one lying on the ground immediately under the tree, the other a short distance off, also a net. In the tree was found an axe hanging on one of the branches. This axe is

The net was probably brought to throw the fruit into, to prevent a noise being made by their fall.

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Case of Soosul Khariah.

identified by the witnesses* as belonging to the prisoner's brother, Damoo Khariah and to its having been seen occasionally in the prisoner's possession.

* Witness No. 7, Muddun Manjee.
,, ,, 8, Mohun Manjee.

The deceased was received into hospital, on the 27th June, and expired from Tetanus, on 6th July.

The medical officer, whose evidence has been taken in this court, deposes that Musst. Bimlee died from lock-jaw (Tetanus) produced by a severe incised wound on the left side of the head inflicted with some sharp-cutting instrument† like that produced.

The prisoner denies his guilt throughout, and pleads an *alibi*. To prove this, he cites several witnesses who can say nothing in his favor.

The only direct evidence‡ against the prisoner is that of the deceased, but it is fully corroborated by the circumstances attending the case, and the testimony of the witnesses who came to the spot immediately after the assault occurred. The person of the prisoner was well known to the deceased and as it was a moonlight night, the latter could have had no difficulty in recognizing him.

The assessors declare the prisoner guilty of the charge preferred against him. In this finding I concur. There can be no doubt in my opinion that the prisoner is the person who assaulted the deceased. The attack under the circumstances was a brutal one and aggravated by the fact of its being made in prosecution of a felony.

There are no extenuating circumstances that would warrant any sentence short of an irrevocable one, and I accordingly recommend that sentence of death be passed upon the prisoner.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The only evidence, as to the identity of the prisoner, is that of Musst. Bimlee, who died in hospital on the 6th of July. She certainly named the prisoner on the very night of the occurrence to the neighbours, who came to her assistance, but there is *no single corroborative circumstance* on record to connect the prisoner with the crime, and thereby lead us to the conclusion that the deceased had identified the right person. The moon was only seven days old and though Bimlee says that it's light enabled her to identify the prisoner, yet Ram Digwar and others who were attracted to the spot by her cries, and must have been there shortly after-

† This instrument is a kind of battle-axe with which the jungle tribes in this part of the country invariably arm themselves. It is adapted for chopping wood, as well as for defensive and offensive purposes.

‡ According to Section 28, Act II. of 1855, the evidence of one witness is sufficient if corroborated.

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wards, declare that the moon had set, and therefore throw some doubt upon the deceased's statement upon this point. Under these circumstances, a matter of surprise to us that the sessions judge has recorded that the deceased's evidence "is fully corroborated by the circumstances attending the case, and the testimony of the witnesses who came to the spot immediately after the assault occurred." We suppose that the sessions judge alludes to the fact of the deceased having accused the prisoner to the witnesses, but this is only evidence of her belief as to his identity, it is no corroboration of his actually being the person who assaulted her. Under the circumstances above detailed, we are reluctant to give full credit to the woman's evidence against the prisoner, as it is possible she may have been deceived in the person, more especially as in the case before us, a sentence of death or transportation for life must follow our concurrence in his conviction.

We therefore acquit the prisoner and direct his release.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND SEWLOLL MISSER

versus

JUGGERNATH MISSER (No. 1,) BUNNO MISSER (No. 2,) GOBIND AHEER (No. 3.)

Shahabad.

1855. October 2. Case of JUGGERNATH MISSER and others.

The appeal was rejected, the prisoner's defence not being proved.

CRIME CHARGED.—Wilful murder of Sewchurn Misser, brother of the prosecutor.

CRIME ESTABLISHED.—Culpable homicide of Sewchurn Misser, brother of the prosecutor.

Committing Officer.—Mr. J. Worsley, deputy magistrate of Saseeram.

Tried before Mr. R. J. Loughman, officiating sessions judge of Shahabad, on the 3rd April, 1855.

Remarks by the officiating sessions judge.—The facts in evidence in this case are, that on the 11th January, 1855, the prisoners were cutting grass in a field belonging to the deceased. He expostulated with them, a dispute arose, when the prisoners threw him down and two of them Nos. 1 and 2, holding him down by placing their sticks across his throat prisoner No. 3, with another man, not before the court, mounted his belly and struck him with their fists and elbows.

The prisoner died on the spot in consequence of internal injury caused by the blows.

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The facts are established by the evidence of the eye-witnesses as per magin.*

* No. 1, Deenoo Misser.
,, 2, Gowree Misser.
,, 3, Ramphul Pandi.

The native doctor's evidence shows that the injuries sustained, were the immediate cause of death.

The prisoners plead *not guilty*, but establish no defence, but the witnesses examined before the magistrate denied all knowledge of the defence set up.

The outrage was not deliberate, but committed on the provocation of the moment, and although the prisoners had *lattees*, they do not appear to have been used, save for the purpose of holding the deceased down.

The *futwa* acquitting the prisoners of the charge of wilful murder, find them guilty of culpable homicide and declare them subject to *seeasut*.

Sentence passed by the lower court. –Each to be imprisoned with labor in irons for (7) seven years.

Remarks by the Nizamut Adawlut —(Present: Messrs. A. Dick and B. J. Colvin.) The Court see no reason to inferfere with the sentence passed on the prisoners, petitioners The defence, in virtue of which they appeal, they were unable to prove in the sessions or magistrate's courts.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

RAMSOONDER NURSOONDER

versus

RUSSULDEE PARAMANICK (No. 1,) SOONDER KUBRAJE (No. 2)

Rajshahye

October 2. Case of RUSSULDEE PARAMANICK and another.

The prisoners were convicted as accessaries after the fact in wilful murder and were sentenced to three years imprisonment.

CRIME CHARGED -1st count, wilful murder of Mudhoo Napit; 2nd count, being accessaries after the fact; 3rd count, privity; 4th count, concealing a suspicious death.

Committing Officer.—Mr. J. C. Dodgson, magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 30th April, 1855.

Remarks by the sessions judge.—The trial was before disposed of by me without reference, and the following were the remarks inserted in statement No. 6, for April last.

In this case there were no witnesses to the fact, or to establish the homicide. The deceased, however, who was given to intrigue, seems to have been seized, beaten, and strangled one night and his body then carried and thrown out, where it

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Case of RUSSULDEE PARAMANIK and another.

A sessions judge is not authorized to pass sentence on a prisoner, convicted as an accessary after the fact, in wilful murder.

was found next day. The prisoners, when apprehended, confessed to having thrown it out, but pleaded, or pretended to be ignorant as to who had killed the deceased. The mofussil confessions not being properly certified, were rejected, as the prisoners denied making them. Both, however, confessed to carrying away the body to the magistrate, which confessions have been fully proved to have been voluntary, I have, therefore, in concurrence with the *futwa*, convicted them of privity to the murder, and attempting to screen the real offenders by taking and throwing the body out into another place (and which there can be no doubt was their object in removing it) and have sentenced them as herein stated.

The Court being of opinion, that the confessions of the prisoners, in the foujdary, prove them to have been accessaries after the fact to the murder, and that the case was beyond my power to decide finally it is now submitted for their orders; and I beg to suggest that the prisoners be sentenced to five years' imsonment, with labor and irons, or any other enhanced sentence which the Court may deem proper. Both are in jail and they were before sentenced on the 30th of April last.

The Court's* resolution was received on the 1st of this month, but the *nuthee* on the 7th and which has caused the delay in resubmitting the proceedings for their orders, those of the sessions court having to be copied.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoners are convicted on their own confessions of being accessaries after the fact of the murder of Mudhoo Napit. We sentence them to three years' imprisonment with labor commutable to a fine of 30 rupees, payable within one month.

* *Resolution by the Nizamut Adawlut.*—(Present: Sir R. Barlow, Bart., and Mr. H. T. Raikes) No 641, dated the 23d July, 1855.

The Court, having perused the papers connected with the case of Russuldee and Soonder Kubraj, observe that the sessions judge has convicted the prisoners of privity to murder after the fact Their confessions in the foujdary prove them to have been accessaries after the fact. The first offence is punishable by the magistrate the second takes the case out of the sessions judge's jurisdiction. As the fact of the case, reported by the sessions judge' in his statement No. 6, establish an offence, which it was beyond his power to decide finally, the Court quash the sentence of five years' imprisonment, which was passed by that officer, on the 30th of April last, upon the prisoners, Russuldee and Soonder Kubraj, and direct that he will refer the case for the final orders of the Nizamut Adawlut.

The Court refer the sessions judge to Circular Order No. 8, of the 7th June, 1847, which clearly points out the distinction between the offence of being privy and accessary to a crime.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

UGNEE DOSS (No. 1,) RAMKISTO MOODHEE (No. 2,) SREEDHUR MAHANTY (No. 3,) AND DUDHEE MAHANTY (No. 4.)

Cuttac

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Case of UGNEE Dos and others.

The prison convicted murder, c violent pr sumption, w sentenced transportatic for life.

CRIME CHARGED.—1st count, No. 1, wilful murder of his daughter-in-law named Musst. Chumpah: 2nd count, concealing the above crime in giving out first, that the said Musst. Chumpah died from the bite of a snake, and afterwards that she had hanged herself, and in attempting to burn the body of the deceased in conjunction with the prisoner Nos. 2, 3 and 4, without giving notice to the police; prisoners Nos. 2, 3 and 4, 1st count, being accessaries to the murder of Musst Champah after the fact; 2nd count, being privy to the crime of prisoner No. 1, and attempting to burn the body of the deceased without knowledge of the police and thereby to conceal the murder.

Committing Officer.—Mr. A. S. Annand, magistrate of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 24th August, 1855.

Remarks by the sessions judge.—The particulars of this case are as follows: At 6 A. M on Saturday morning Bana Bej, the *bundarry* of Dol Moondye Sahee, in which the prisoners reside, appeared at the Pooree thannah and gave information that he heard from Musst. Radhee the wife of Ugnee Doss, prisoner No. 1, that her daughter-in-law Musst. Chumpah had died from the bite of a snake, and that he also heard Gunness Patur and others, who were conversing together, say that there had been a disturbance and quarrel in the house of the said Ugnee Doss, nevertheless the prisoners Nos. 1, 2, 3 and 4, were carrying away the body to burn it, without giving information to the police, but they had been stopped by Rughoonath Singh and Sumbhoo Singh, burkundazes attached to the Singh Durwazah pharree. On learning the above, the darogah proceeded to the spot where the body was, and on uncovering it, found the whole of the back of the deceased from the shoulders downwards to the buttocks covered with marks of beating, and also marks of violence on the forehead. And Ugnee Doss, the prisoner No. 1, having first stated that the deceased died from the bite of a snake, and afterwards that she hanged herself; the darogah at once sent the body to be examined by the civil sur-

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geon of the station, and, on the following day, forwarded the prisoners to the magistrate to be put on their trial for the murder of the deceased, &c.

Ugnee Doss, the prisoner No. 1, pleaded *not guilty* to the charge of murder, both before the magistrate and this court, and asserted that she had hanged herself.

Ramkishto Moodhee, Sreedhur Mahanty and Dudhee Mahanty, prisoners Nos. 2, 3 and 4, also pleaded *not guilty*, and stated that they did not know the deceased had been killed, and were told by Ugnee Doss that she had died from the bite of a snake.

Musst Radhee, witness No. 7, the wife of the prisoner Ugnee Doss, deposed generally, though in a prevaricating manner, evidently occasioned both by fear and reluctance to criminate her husband, that the deceased Chumpah hanged herself. But she had admitted that her husband struck the deceased two blows in the morning with a stick or piece of firewood.

Ram Doss, witness No. 8, son of the prisoner Ugnee Doss and husband of the deceased Chumpah, deposed that he left home early on the day of his wife's death, and that on his return home in the evening, just as he reached his house, he saw his father go into it, and on his following him, he saw his wife's body lying by a drain in the court-yard, and was told by his father that she had hanged herself in the house facing the road, and he had cut her down. That life was not then quite extinct, but she expired immediately And he also stated that he was told by his father, that he struck her two blows in the morning for stealing 2 Rs. from his box, and that he saw marks of the said blows on his wife's back; but he did not witness any beating He also admitted that there was an abraison of the skin on the forehead or head of the deceased, but stated that it was caused by its coming in contact with something, when it was cut down. This witness also was evidently bent on screening his father, the prisoner No. 1.

Chakhundee Mahapater, witness No. 3, deposed that at noon on Friday, the day Chumpah met her death, he went to the prisoner's house to release a silver chain from pledge, and saw Chumpah lying in the house with her hands and feet tied, and blood flowing from her head, and on his asking Ugnee Doss the cause of her being in that state, he replied that she was constantly absconding from the house, and he had been put to the expense of hundreds of rupees on her account, and though he, witness, told him to unloose her, he refused to do so. And he shortly afterwards met Bana Bej, witness No. 10, the Sahaee *bundarry*, and told him what he had seen, and told him to give information at the thannah, but whether he did so or not, he, witness, did not know, and he did not himself give information

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at the thannah, because it is the duty of the Sahaee (division) naik and Sahaee *bundarry*, to report such events.

The prisoner Ugnee Doss, asked this witness whether he had not had a quarrel with him about the *dhujja* of the idol Juggernath? but he denied having any quarrel at all with him.

This witness also deposed to the marks of violence seen at the inquest in the deceased's body.

Narain Settee, witness No. 9, depose that he is the servant of Gunness Doss, the brother of the prisoner Ugnee Doss, and on Friday morning he heard a quarrel in the house of the said Ugnee Doss, between Musst. Radhee, his wife, and his daughter-in-law, the deceased, about the theft of some rupees by the latter, that the quarrel ceased, and at about 10 *ghurries* of the day (1.30. P. M) the prisoner's daughter-in-law absconded, but she was brought back by the prisoner Ugnee Doss' wife, or son; by whom he did not see, and he heard the noise of two or three blows, and the deceased cry out. But he did not know how Chumpah died, and heard the next morning that she hanged herself.

Bana Bej, witness No 10, Sahaee *bundarry* corroborates the report of the police darogah, and the evidence of Chakhundee Mahapater witness No. 3. He also deposed that the prisoner Ugnee Doss, offered him rupees 10 not to give information to the police.

Great delay (viz 12 or 14 hours) was allowed to take place by this witness between the time of his hearing from witness No. 8, that the deceased had been beat, and his giving information to the police, but he is a mere lad, and it is to be inferred that he was at first disposed to comply with Ugnee Doss's request not to report the occurrence.

Shamsoondur Patjosee, witness No. 11, Bullee Doss, witness No. 12, deposed that the prisoner, Ugnee Doss went to them at about 11 o'clock at night, and first told them that his daughter-in-law, Chumpah, had been bitten by a snake, and that on his, Shamsoondur Patjosee's asking him whether he had taken her to the *gurroor koombah* or pillar in front of Juggernath, as was customary in such cases, to invoke a cure, he said she had not been bitten by a snake, but had hanged herself; and that he then sent for Bana Bej, the Suhaee *bundarry*, and told him to give information at the thannah.

Both these witnesses in the first place denied that Ugnee Doss had told them that he struck the deceased two blows for stealing his rupees, though they distinctly deposed to the fact before the magistrate. And on being questioned as to the cause of their denial, witness No. 11, admitted that he had said so, and stated that he was in distress owing to the death of his son, and was oblivious as to what had occurred since. And witness

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No. 12, stated that he did not recollect that the prisoner had said any thing about the beating; that he was awoke from sleep when the prisoner told witness No. 11, about his daughter-in-law's death.

Sumbhoo Singh burkundaz, witness No. 1, Rughoonath Singh burkundaz, witness No. 2, depose to their having arrested the body of the deceased as it was being taken to the *sungsar* to be burned, and to having seen the marks of beating on the back and forehead when it was uncovered by the darogah, likewise to the cloth in which the body was covered having been stained with blood.

Barjo Panda, witness No. 4, Ramchunder Poojah Panda, witness No. 5, Madhub Mahanty, witness No. 6, deposed to marks of beating; also the marks as of a cord on the neck of the deceased, when it was examined by the darogah before forwarding it to the magistrate.

The following is an abstract from the deposition of Mr. civil surgeon E. B. Thring, who held a *post mortem* examination on the body of Musst Chumpah

"I examined the body and found severe marks of beating on the whole length of the back and buttocks, and there were likewise marks or blows on the head and forehead; there was also a mark round the neck, such as would be produced by a rope when a person is hanged. There was one distinct mark or blow on the top of the forehead as if occasioned by a blow from a stick, or from being knocked against something: there were other slight bruises on the back of the head.

"The body was such a mass of bruises altogether, that there was no tracing with what particular weapon or instrument they were inflicted, there is no doubt they were caused by beating."

And in reply to the question, "Did you find any blood collected in any parts (of the body during the *post mortem* examination) and have you been able to trace the direct cause of death?" he stated "Yes, she appeared to have all the symptoms of a person who had been strangled by hanging. There was congestion of the lungs and congestion of the brain. There was no disease apparent."

And on being asked "Could the mark on the neck have been caused by a string or rope being pulled across the neck by another person?" he replied "Yes, it might have been caused in that way, but I don't think it was caused in that way, because the chances are that if it had been thus caused, there would have been other marks and not one single line, by the party struggling, the line extended obliquely upwards on the side of the neck, but it is possible it may have been caused by a person holding the string, though not likely."

Ugnee Doss, prisoner No. 1, on being called on to state what he had to say in his defence said:- 1855.

"That his daughter-in-law, Musst. Chumpah, deceased, stole Rs. 2, from his box; that on his charging her with the theft she denied; and that in the evening on his return home from the *Shewa* of the *moha probhoo*, he saw her suspended from a beam over the *muchan* in his house facing the road, gasping for breath; and that he unloosed the rope, and when doing so, she fell down and struck her head, nose and various other parts of the body on the *tukhtahposh*, which was underneath the place where she was suspended, that he offered her water but she could not drink, and he placed her body near the drain (in the court-yard) and put her *chudder* over it, and went to call his brothers or associates, but some had gone to the *jatra*, and some to *Shewa poojah*, and he could not find them.

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"That he then called Gopee Doss, Deenbundoo Doss and Guness Doss, who were at the temple, whom he first told them that Chumpah had hanged herself; but as no one would assist to take away the body, he afterwards said that she had been bit by a snake. On which they said that they would not be able to perform *Shewa* if they took away the body, and told him to call his own relations, and he accordingly called the prisoners Nos. 2, 3 and 4, among whom No. 2, is his son-in-law, and with their assistance removed the body. He also stated that after his daughter-in-law had died, he went to witness No. 11, and first told him that she had died from the bite of a snake, and afterwards that she had hanged herself and he told him to burn the body and he would give information at the thannah. That he had expended Rs. 500, to get his son married why therefore should he kill his daughter-in-law."

Ramkisto Moodhee, prisoner No. 2, stated in his defence.

"That at about 9 o'clock at night Ugnee Doss called him to go and see his daughter-in-law who had been attacked with some illness, but having business at the *deol* he did not accompany him; and at about 4 A. M. in the morning, Ugnee Doss again came to his house and said his daughter-in-law had died from the bite of a snake, and told him to assist in taking away her body, and on his going to his house, he saw the body bound on a *machan* and the *haurees* playing music, and he assisted in carrying it away. And he did not know whether information of her having died from a snake bite, had been given at the thannah or not."

Sreedhur Mahanty, prisoner No. 3, stated in his defence "that Ugnee Doss and Madhub Mahanty informed him at about 5 A. M. that Chumpah had died from the bite of a snake, and told him to remove the body, and on his asking whether he would not incur any harm by doing so, Ugnee Doss told him he had informed the *suhaee naik* and *bundarry*, and he went

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and assisted in removing it. And he did not know she had died from hanging or that any one had killed her."

Dudhee Mahanty prisoner No. 4, stated in his defence.

"That he went to a marriage at his brother-in-law's house, where Ugnee Doss and Guness Doss came at about 4 A. M. and told him to assist in carrying away the body of Chumpah, and that on his objecting to do so, they took him by the hand and pressed him to do so, saying that he was their relation, and if he would not assist, no one else would do so. That he then went and saw the body on a *muchan*, and was told that she had died from the bite of a snake, and that information had been given to the *suhaee naik* and *bundarry*, and he assisted in carrying away the body when it was stopped by the police."

The *futwa* of the law officer, which will be found with the record, convicts the prisoner Ugnee Doss of the culpable homicide of Musst. Chumpah on violent presumptive proof, and declares him liable to the punishment of *deut*. But acquits the prisoners Nos. 2, 3 and 4, of the crime charged against them, on the grounds that it is not proved that they were aware that the deceased died from the effects of a beating.

And in consequence of the contradictory statements of Ugnee Doss, prisoner No. 1, regarding the cause of Musst. Chumpah's death, viz. his having first stated that she died from the bite of a snake, and afterwards that she hanged herself, the existence of marks of severe beating all over the body of the deceased, the evidence of Musst. Radhee, the wife, and Ram Doss, the son of the said Ugnee Doss, as well as that of Chakundee Muhapater, witnesses Nos. 7, 8 and 3, and the general circumstances of the case, I consider that there exists violent presumptive proof that the deceased Musst. Chumpah was killed by the prisoner Ugnee Doss aided or not by others. And it is by no means improbable with reference to the circumstances of the case, that the prisoner Ugnee Doss, after severely beating her, strangled her by twisting or pulling a cord across her neck; for the statement of his son Ram Doss, who is the only person who deposed to the deceased having been suspended, is not to be credited; because it is quite impossible that Ugnee Doss had time to go into the house, cut down the deceased, and remove her body to the side of the *nurdumma* or drain, in the short space of time that elapsed between his father's and his going into the house. I therefore in concurrence with the *futwa* of the law officer, convict the prisoner Ugnee Doss of culpable homicide, but of a highly aggravated nature, amounting the next thing to wilful murder; for the *post mortem* examination of the deceased's body and the evidence of Mr. civil surgeon E. B. Thring, prove that her back was one mass of bruises, and there were also injuries on the head; and this coupled with the evidence of Chakundee Muhapater, witness No. 3, who deposed that he saw Chumpah bound

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hands and feet, with blood flowing from her head in the prisoner's house, renders it next to impossible that she could have hanged herself. Therefore considering the prisoner Ugnee Doss is deserving of a higher degree of punishment than I can inflict, I refer his case for the orders of the superior Court.

I dissent from the *futwa*, as relating to the prisoners Ramkisto Moodhee No. 2, Sreedhur Mahanty No. 3, and Dudhee Mahanty No. 4. It is clear, from their own statements, that they were told by the prisoner No. 1, that the deceased Chumpah died from the bite of a snake, and notwithstanding this, they took no means to ascertain whether such was really the case or not, but carried off the body to burn it before day-break though they were aware that no examination of the body had been held by the police, as is customary in such cases. I therefore consider that in their case also, there exists presumptive proof of their being privy to the homicide of the deceased, and having aided in attempting to conceal it; and I recommend that they be sentenced to one year's imprisonment each

The cloth, with which the deceased's body was covered as it was being taken away to be burned, and on which blood is said to have been visible, was lost or made away with, before it had been produced before this court.

The magistrate of Cuttack has punished his nazir for not seeing that it was locked up, and has addressed the magistrate of Pooree requesting him to take proper notice of the conduct of the burkundaz in whose charge the cloth was.

Remarks by the Nizamut Adawlut -(Present: Messrs. A. Dick and B. J. Colvin.) We consider that the prisoner, No. 1, cannot be convicted of a crime short of murder.

The nature and extent of the maltreatment, which the deceased received at his hands, is apparent from the medical evidence quoted by the sessions judge. That evidence and the other evidence in the case entirely corroborate the idea that the prisoner after beating the deceased till she became insensible, suspended her, that it might be supposed she had hung herself. The consequence of this act was, that he strangled her. If he only tied her up, thinking at the time, that she was dead, the step which he took to screen himself ended in her death, for the civil surgeon deposed that she appeared to have been strangled by hanging and the marks on the neck showed that she had been suspended *before* death. The degree of proof, however, against the prisoner is only such as that he can be convicted of murder on violent presumption. We accordingly convict the prisoner of murder on violent presumption, and sentence him to imprisonment for life in transportation beyond seas.

As regards the other prisoners, we do not concur with the sessions judge that there exists presumptive proof of their being privy to the homicide of the deceased.

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We therefore acquit them of the charges against them and direct their release.

PRESENT:

H T RAIKES AND J. H. PATTON, ESQS, *Judges.*

GOVERNMENT

versus

AKBUR NEEKAREE.

24-Pergunnahs.

1855. October 2. Case of AKBUR NEEKAREE.

The prisoner was convicted of attempting to murder a prostitute, whom he decoyed to the bank of a canal, where he knocked her down and plundered her and left her in the bed of the canal. Sentence, transportation for life.

CRIME CHARGED.—1st count, attempt to murder Musst. Kalee; 2nd count, robbing Musst. Kalee of a gold neck-chain and silver anklets of the value of Rs. 49, attended with severe beating and attempt to murder the said Musst. Kalee.

Committing Officer.—Mr. H. D. Fergusson, magistrate of the 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of the 24-Pergunnahs, on the 25th July, 1855.

Remarks by the additional sessions judge.—Kalee Raur was known to the prisoner as a prostitute.

The result of the prisoner's trial has established that he got Kalee Raur* to meet him and to accompany him on the pretence of introducing her to a Baboo in Sealda. He conveyed her† from place to place, with no other object apparently than to consume time, and at about gun fire‡ having got her on the banks of the new Baleaghatta canal, he knocked her down, and stunned her, with two blows of a short club, and then robbing her of her jewels he decamped, leaving her in the bed of the canal, where* she was soon after picked up by three fishermen in a boat, who all say that the woman was drenching wet and besmeared, from head to foot, with mud and slime.

* Evidence of Kalee Raur witness No. 1

† Evidence of witnesses Nos. 7, 8, and 9.

‡ Evidence of Kalee Raur.

* Witnesses Nos. 10, 11, and 12

Witness No. 5 She had on jewels when she went to meet the prisoner to the value of 45 or 50 Rupees.

Witness No 2, Dr. Strong. She received injuries on the head and face which would have killed a weaker woman.

The prisoner's defence is, that he was in company with Kalee Raur when she, in a drunken state, reeled over some bricks and wounded her head. He took her to a house and left her after she recovered. He denies robbing her, and affirms that the case has been got up against him by the Intally buxshee, who has an intrigue with Parbutty Raur, because the prisoner would not discontinue his visits to Kalee Raur. He called witnesses to character, but the parties named have only recently become

acquainted with the prisoner, and are not able to say what kind of a character he is. 1855.

Serjeant Green, witness No. 13, was sent by the magistrate to inspect the bricks which the prisoner might point out to be those over which Kalee Raur stumbled, and to make other enquiries; he found the bricks were in a *stack* off the thoroughfare; the bricks were 1,560 feet from the place where Kalee Raur was found lying, and there was no house nearer than 890 feet from the latter place. October 2. Case of AKBUR NEKKAREE.

The statement that the prisoner took Kalee Raur to a house after she received the hurt was falsified by the evidence before the magistrate, of the person to whom the house belonged, and the prisoner took to immediate flight and evaded apprehension for eight days after the case occurred.

The law officer finds the prisoner guilty on violent presumption of both counts.

I agree in this *futwa*; from Kalee Raur's own statement, which there is every reason to trust, and which has been corroborated as far as the nature of the case allowed, there is no doubt the prisoner meditated the deed from the very beginning, he carried her about, here and there, till night set in, he then conveyed her to a lone place, and from the position and condition Kalee Raur was found in, it is presumable that the prisoner either held her under water intending so to kill her, or that he threw her into the water expecting she would die. It is probable that he thought he had murdered her, before he quitted her, or he may have been disturbed in the act and obliged to desist, before he completely accomplished the murder. From all the facts elicited, and from the inferences to be drawn from them, I feel no doubt in deciding that the prisoner did attempt to murder Kalee Raur, for the sake of her ornaments, and that he did rob her of them.

It will be in the recollection of the Court that this is the second case of the same nature occurring within a brief interval of the first, and two cases coming to light so soon after each other, seems to call for severe example. I would recommend therefore, both for the sake of example and because the nature of the crime deserves a severe sentence, that the prisoner be transported for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and J. H. Patton.) The woman, Kalee Raur's statement, we find fully corroborated in all material points by the other witnesses, and looking at the time, and place, of the robbery and the pretence by which the prisoner induced the woman to accompany him, we fully concur with the sessions judge that the prisoner intended to murder her and doubtless believed he had done so when he left her insensible in the *nullah.* We convict the prisoner of the offence as charged, and sentence him, as proposed, to transportation for life.

PRESENT:

A. DICK AND B. J. COLVIN, Esqs., *Judges*.

GOVERNMENT

versus

MAMDOO SHEIKH (No. 1,) SHEIKH POYJAREE, (No. 2,) NUZIM SHEIKH (No 3,) SHANTOH SHEIKH (No. 4,) RAJKISTOH SHADHOO KHAN (No. 5.)

24-Pergunnahs.

1855.

October 2.

Case of MAMDOO SHEIKH and others.

Appeal rejected. The fact that the prisoners who could not read or write were made witnesses to the confessions remarked upon.

CRIME CHARGED.—No. 1, perjury in having on the 5th June 1855, deposed on solemn declaration taken instead of an oath under Act 5 of 1840, before the magistrate of 24-Pergunnahs the case of Nokoorchunder Daw *versus* Dhurmodas and others charged with theft, that "I cannot say what was written or not written (at the thannah) concerning Dhurmodas, I know nothing (of the case), I did not see whether Dhurmodas was at the thannah or not, and I do not recognise who Dhurmodas is. When Dhurmodas's confession was written, I was not present" Such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case; No. 2, perjury, in having on the 5th June aforesaid, deposed on solemn declaration before the magistrate of the 24-Pergunnahs in the said case of theft that "I do not know any thing at all about what was written at the thannah concerning Dhurmodas, nor what he said. I was not a witness. I cannot tell why the darogah wrote my name (as a witness). Nothing was written in my presence." Such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case. No. 3, perjury, in having on the 5th June aforesaid, deposed on solemn declaration before the magistrate of the 24-Pergunnahs in the said case of theft that: "I know nothing at all about what Gobind Tailee (said or) caused to be written, and I do not know him. The defendant here present (Govind Tailee) said nothing (at the thannah) in my presence, I did not hear what the defendant said." Such deposition being false, and having been intentionally and deliberately made on a point material to the issue of the case. No. 4, perjury in having on the 5th June aforesaid deposed, on solemn declaration before the magistrate of the 24-Pergunnahs in the said case of theft, that "I do not know why the buxshee (or thannah mohurrir) wrote down my name, I do not recognise Govind Tailee. No defendant's confession was written at the thannah before me, or in my presence." Such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case. No. 5, perjury, in having on the 5th June aforesaid, deposed on solemn declaration before the magistrate of the 24-

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Case of MAMDOO SHEIKH and others.

Pergunnahs in the said case of theft that "I don't recognise Mohesh Daw, I do not know any thing at all as to whether Mohesh (said or) caused any thing to be written down, or not. No defendant confessed about any thing before me." Such deposition being false, and having been intentionally and deliberately made, on a point material to the issue of the case.

Committing Officer.—Mr. H. D. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 26th July, 1855.

Remarks by the additional sessions judge.—The facts proved

Evidence of witnesses, Nos. 1 to 5.

are, that the prisoners were witnesses at the thannah to the confession of three different persons.

Evidence of witnesses, Nos. 6, 7 and 8.—When they appeared before the magistrate for the purpose of verifying the confessions made in their presence, they denied that any such confessions had been made in their hearing or to their knowledge.

The prisoners maintained at their trial at the sessions the statement given by them before the magistrate.

The law officer finds them guilty of perjury.

I agree in this finding, but as the object of the prisoners in denying the fact of the confessions, was not to prevent justice, but to save themselves from the trouble of being again called upon to witness confessions, the guilt of the prisoners is not that which generally characterizes the crime of perjury.

Having no power to remit the punishment, I have awarded the usual sentence of three years, but I beg to recommend that it be reduced to a fine of 25 Rs. each, or to simple imprisonment for three months. A slight punishment will suffice for the offence, and for example, and I accordingly submit the papers of the case for such orders as the Court, in their discretion, may deem proper to pass upon the prisoners.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) We concur in the propriety of this conviction, and sentence the prisoners to six months' imprisonment with labor, without irons, from the 26th July last. Their offence was one calculated to defeat the ends of justice whatever might have been the object of the prisoners, and amounted likewise to a charge of a serious nature against the darogah and police. We add, however, that the prisoners were made witnesses to the confessions, although unable to write. This, the law (Clause 1, Section 19, Regulation XX. 1817,) only allows when respectable persons, able to read and write, are not to be found.

The darogah should have recorded that respectable persons, who could read and write, were not procurable.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND KALACHUN DOSS

versus

SHEIKH AMIR (No. 1,) SHEIKH BHOLI (No. 2,) SHEIKH DAGOO (No. 3,) SHEIKH NOAB ALLI (No. 4,) SHEIKH NEZA (No. 5,) SHEIKH MADUREE (No. 6,) DILMAMOOD (No 7,) SHEIKH MAGOO (No. 8,) SHEIKH PANDOB (No 9,) SHEIKH BECHUT (No. 10,) SHEIKH ATTAOOLLA (No. 11,) AND JUGGERNATH DHUR (No. 12.)

Dacca.

1855.

October 3.

Case of JUGGERNATH DHUR and others.

The prisoner charged with culpable homicide was acquitted in conformity with the recommendation of the sessions judge.

CRIME CHARGED.—Culpable homicide of Soobul Bhodur.

Committing Officer.—Mr. T. Tweedie, deputy magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 27th of July, 1855.

Remarks by the sessions judge—Soobul Bhodur, deceased, was gomashta of the zemindar, and took out process under Regulation VII. of 1799, against several ryots on the estate. He proceeded with the witnesses Nos. 1* to 6, to arrest the defaulters, when he and his party were set on by the prisoners, and deceased seized and carried off to the building where the prisoner, Juggernath Dhur, (No. 12,) gomashta of Modoo Baboo, held his cutcherry. Juggernath refused to allow deceased to be taken into his office and directed the other prisoners to the house of one Needoo (witness No. 16,) in which deceased was placed, but was shortly afterwards found dead from the injuries received by beating in the road.

* No. 1, Sreekisto Dao.
,, 2, Ramkisore Singh peon.
,, 3, Sheikh Jatroo.
,, 4, Noderam Chung
,, 5, Soforoddeen.
,, 6, Sheikh Naudoo.

The prisoners Nos. 1 to 4, made partial confessions at the thannah and before the magistrate. The rest pleaded *not guilty*. In this court all declared they were innocent.

The law officer convicted the prisoners Nos. 1 and 3, to 11, of the homicide charged and Nos. 2 and 12, as accessaries.

I concur in the verdict as regards the prisoners Nos. 1 to 11, whom I have sentenced but not in regard to the prisoner No. 12.

The witnesses Nos. 7† and 8 state that the prisoners Nos. 1 to 11, took the deceased to the house of Juggernath (prisoner No. 12,) but this person refused

† No. 7, Suki.
,, 8, Sheikh Kholill.

to receive the party, though he directed them to Needoo's house. At this time deceased was alive nor does it appear that he was in a very weak state, so that his death might be immediately expected. Beyond this, nothing is proved against Juggernath, who was only aware that the other prisoners had the deceased in their power, illegally, or he would not have directed them, for the reason assigned, to Needoo's house, but evidence that he knew even of the deceased's death is wanting.

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October 3.

Case of JUGGERNATH DHUR and others.

The prisoner Juggernath, would, no doubt, have acted with more humanity, had he interfered on behalf of the deceased, but the offence, if any, is very slight, and has been already punished by two months detention in jail.

I would recommend that Juggernath (prisoner No. 12,) be acquitted.

Remarks by the Nizamut Adawlut—(Present: Messrs. H T. Raikes and J. H. Patton) We agree with the sessions judge that the evidence does not prove Juggernath Dhur, the referred prisoner, to have been concerned in the assault which resulted in the death of Soobul Bhodur, and therefore acquit him and direct his release.

PRESENT.

H. T. RAIKES AND J. H PATTON, ESQS, *Judges*.

GOVERNMENT AND SHEIKH ALEE MAHOMED

versus

SHEIKH HANEEF.

Mymensingh.

1855.

October 3.

Case of SHEIKH HANEEF.

CRIME CHARGED.—Wilful murder of Musst Alubjan.

Committing Officer.—Mr. R Alexander, magistrate of Mymensingh.

Tried before Mr W. T. Trotter, sessions judge of Mymensingh, on the 22nd June, 1855.

The prisoner was convicted of the wilful murder of a woman of loose character for the sake of her ornaments, and was sentenced capitally

Remarks by the sessions judge.—There were no eye-witnesses, but in his confession in the mofussil and before the magistrate, the prisoner states that Joomun, who had an illicit intercourse with deceased, had on a previous occasion caught hold of her at night and wanted to kill her for her not gratifying his wishes though he paid her eight annas, but that he (prisoner) who likewise was her paramour came to her assistance and rescued her, that this outrage was reported to the headman of their village and Joomun was fined; that Joomun then threatened to kill her and that both he and Joomun consulted together to do so, that on the day charged, the deceased Alubjan came to the

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Case of SHEIKH HANEEF.

house of witness No. 18, Musst. Zeerah, with her jewels on, to sing songs with Musst. Andwaree and they were both singing, at night, he (prisoner) was sent to Zeerah's by Joomun who is his brother-in-law to make enquiries if Alubjan was there; that he came there and after singing once at the request of the females he returned home; that about ten *ghurrees* of the night, his attention was attracted by a noise proceeding from the direction of a plum tree near his premises (where he had met Joomun watching when he was returning home;) that he went there and saw Alubjan lying on the ground and Joomun twisting a piece of cloth round her neck; Joomun then asked him to hold the twist which he did, while Joomun took out a cord from her waist and tied it round her neck and twisted it till she died; that Joomun then kicked her twice on her face, and after the woman was dead he and Joomun stripped her of all the jewels she had on her person, and threw her corpse into a ditch in a jungle under a mangoe tree in the village of Durregaon where it was discovered naked two days after by her husband; that he took out two rings from the deceased's fingers and the rest of jewels were taken away by Joomun who, he said, dug a hole under a plantain tree near his house and he, prisoner, put them in and covered them up with earth, and that he afterwards gave them up to the police from that place.

In this court he denied killing the deceased and said that Joomun did so, on account of enmity with her.

The body was too much decomposed on its reaching the station to admit of the civil surgeon being able to state the cause of death, but the witnesses to the inquest, held in the mofussil, depose to there having been a mark round the deceased's neck as if caused by a cloth tied round it and another mark on the right knee.

Joomun was put upon his trial before the magistrate, but that officer acquitted him for want of evidence against him beyond the statement of this prisoner.

The *futwa* of the law officer convicted the prisoner upon violent presumption, of culpable homicide by assaulting the deceased, from the effects of which she died.

I do not concur in this verdict. From the fact of the ornaments which the deceased had on her person having been pointed out to the police by the prisoner, and from his mofussil and foujdary confessions, as well as from the tenor of his answer in this court, I consider that he has been guilty of the murder of the deceased for the sake of her ornaments. He endeavours to throw the weight of the charge on Joomun, but he has been acquitted by the magistrate for want of proof: as nothing under a sentence of imprisonment for life with labor and irons in banishment beyond sea, will, in my opinion, satisfy the ends of justice, I beg to recommend the same. Indeed I am not sure

1855. October 3. Case of SHEIKH HANEEF.

that a capital sentence should not be recorded against him, for even admitting that his own story is correct, he must in that case be considered in the light of an accomplice in the murder.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoner, though admitting that he and his brother-in-law, Joomun, had determined on committing the murder, and that with this object he had previously ascertained that the deceased was at Zeerah's house and would be returning home at night, states in his confessions that he only joined Joomun on hearing a cry and after the murder had been committed by him, whom he then assisted in concealing the body; yet the prisoner's mother, who, he says, forbad his leaving home, because Joomun was outside, fails to corroborate any part of this statement. There is no doubt that the prisoner produced the whole of the ornaments worn by the deceased on the night of the murder, and it is fairly presumable that the prisoner having agreed to take part in the deed, actually aided in killing the deceased, and that his immediate object was to obtain the jewels at the time on her person; he is therefore clearly guilty of murder in the prosecution of robbery, and, in our opinion, the proof is full and satisfactory, and seeing no mitigating circumstance whatever, we consider the law must take its course and we condemn the prisoner to suffer death.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND GOYANATH MANJEE

versus

AHEER MANJEE.

Rajshahye.

1855

October 3.

Case of AHEER MANJEE.

The prisoner was convicted of the wilful murder of a woman, with whom he carried on adulterous inter-

CRIME CHARGED.—Wilful murder of Khoolonah Aurut, wife of the prosecutor.

Committing Officer.—Moulvee Abdool Jubber, deputy magistrate of Serajgunge.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 20th September, 1855.

Remarks by the sessions judge.—The charge being murder, the *futwa* convicting the prisoner of the charge, and as there can be no doubt of his guilt, the reference is unavoidable.

The circumstances were briefly as follows. The prisoner had adulterous intercourse with the deceased, the wife of the co-prosecutor, and a neighbour. The deceased, on the day of the occurrence, meeting the prisoner accused him of being familiar

1855.

October 3.

Case of AHEER MANJEE.

course, but with reference to the provocation, and the excitement under which the prisoner was laboring as evinced by his attempt to kill himself, he was sentenced to transportation for life.

with another female, he told her she was mistaken, and he was wrongly accused. The deceased retorted, giving him abuse, and then, when he was going away, with a taunt told him to come and kill her, and, 'if he did not do so, he would eat his *gooroo's* bones,' (a slang expression and held to be very gross abuse among Hindoos) The prisoner could not stand this, and being enraged, with an axe he had in his hands came back and struck the deceased several blows on the head, neck and body, when she fell down, and began to writhe on the ground. The prisoner seeing this, contemplated suicide, and wounded himself with the axe and fell near to the deceased.

The prisoner pleaded *not guilty.*

Witnesses Nos. 1 *and* 2.—These witnesses (the first examined being No. 2,) deposed to finding the prisoner and deceased lying as above described, and the axe near them. The former, who was the chowkedar of the village, apprehended the prisoner, who admitted he had killed the deceased; and both witnesses recognised the axe as the prisoner's property (a common one used to cut up wood.)

Witnesses Nos 2, 3 and 1, attested the *sooruthal* or inquest held on the corpse, which was taken to the thannah in the same boat with the prisoner.

This is the evidence, the confessions before the darogah, taken in the deputy magistrate's *kutcherry verandah* and before the latter officer in court, fill up the *hiatus.*

These were fully proved to have been voluntary, and attested by the subscribing witnesses, all of whom could write.

The substance of the confessions has been given above, and there is an epitome in the *futwa*, but as they must be read I need not recapitulate their contents. Both were made on the same day, or the 30th of August, and vary very little.

When called upon for his defence, the prisoner said he had no witnesses, but the prosecutor first killed his own wife, and then wounded him; and the villagers had conspired against him, and got him apprehended on the charge; and they told him, that if he did not confess his father and mother would be fined, and being in a senseless state he did not know what he said.

The prisoner's father and mother were both named as witnesses for the prosecution, but not examined, as they did not see the blows given to the deceased, or could give any further evidence than what the court had elicited from the first two witnesses. I however examined them to their son's temper, both said he was very wilful, and did not obey them; and the father, that this change had come over him since the death of his wife.

The law officer was then questioned and replied the prisoner was guilty of wilful murder, and his *futwa* is to the same effect declaring *kissas* incurred.

In my opinion there can be no doubt he killed the woman Khoolonah, the wife of Goyanath Manjee, with an axe, which he had in his hand when she abused him and, in the most provoking manner, challenged him to kill her. This is the only excuse for his conduct, and I reluctantly am compelled to add, that such an excuse does not warrant my recommending him for mercy, or the favorable consideration of the Court. But should they be of a different opinion from the circumstances of the case and suddenness of the act, I shall be too glad to carry out any sentence short of death.

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Case of AHEER MANJEE.

With this opinion I leave the prisoner's case in their hands. His head and back are covered with the marks of blows inflicted on himself with the axe, which weighs, I find, one *seer* and seven *chittacks*.

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and J. H. Patton.) There is no doubt that the prisoner killed the deceased with blows of an axe, but taking into consideration the excitement under which he was laboring, as evidenced by the number of wounds inflicted on himself with the same weapon immediately afterwards, apparently with the intent of taking his own life, we conclude that the provocation really given must have been very great, and as it is evident that the assault was sudden and unpremeditated, we think there are grounds for mitigation and sentence him to imprisonment for life in transportation.

PRESENT:

B. J. COLVIN, Esq., *Judge*

GOVERNMENT

versus

JUGLALL.

Patna.

1855.

October 3.

Case of JUGLALL.

The sentence was reduced as proposed.

CRIME CHARGED.—Perjury in having on the 15th August 1855, deposed under a solemn affirmation taken instead of an oath in the presence of G. D. Wilkins, Esq., officiating sessions judge of Patna that "on the morning, hearing a noise he went to the plaintiff's house and saw a *gumcha* and a *lattee* lying by the hole (in the wall), that he and the others (present) saw the *lattee*, and that he recognised it as Jooree Panday's, it was one which Jooree Panday was in the habit of carrying about," and with having again on the same day before the said G. D. Wilkins, Esq., officiating sessions judge of Patna, deposed under a solemn affirmation taken instead of an oath that "nobody saw the *lattee* that day, the *lattee* was recognised after the arrival of the

1855. October 3. Case of JUGLALL

darogah;" such depositions being contrary to each other and having been intentionally and deliberately made on a point material to the issue of the case.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 15th September, 1855.

Remarks by the officiating sessions judge.—In a case of burglary and theft, &c. wherein the prisoners were all acquitted, the prisoner in this case was a witness, when he first deposed before me that on the morning on which the theft was discovered a club and a waist cloth were found near the spot, which he at once recognised as belonging to one Jooree Panday (by which recognition the crime was ultimately traced to the said Jooree Panday) and subsequently, that the club and cloth which undoubtedly *were* found the morning after the burglary on the spot, were at the time recognised by no one, but were carried away by the police and brought back by them eight days after, when and not till then, on being asked by the darogah, he (prisoner,) and others said they recognised the club, &c. shewn them as Jooree Panday's. As this was, if true, the foundation of the case against the prisoners in the burglary case, and as it turned out by the whole circumstances and evidence in the case (besides this prisoner's) not to be true, but to be a trick of the police to make out their case, the prisoner was ordered by me, before the case closed to be indicted for perjury, and being now put on his defence on this charge, confesses the crime The law officer adjudges "*tazeer*" and I *pro forma* pass a sentence of three years' imprisonment with labor and irons, intending to refer the case specially to the sudder Court for a mitigated sentence of six months without labor.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) I reduce the sentence, as proposed, to take effect from 15th ultimo.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND TROYLOKONATH NONDEE
versus
GOPALDAS BYRAGEE (No. 6,) AND KALEECHURN SHAW (No. 11.)

East Burdwan.

1855.

October 4.

Case of GOPALDAS BYRAGEE and another.

Conviction and sentence passed by the sessions judge on a charge of burglary upheld in appeal.

CRIME CHARGED.—1st count, No. 6, burglary in the house of the prosecutor in which property to the value of Rs. 112-11 was stolen; 2nd count, Nos. 6 and 11, knowingly receiving and having in their possession stolen property acquired by the above burglary.

CRIME ESTABLISHED.—No. 6, burglary; No. 11, knowingly receiving and having in his possession stolen property acquired in the above burglary.

Committing Officer.—Mr. G. Hewett, deputy magistrate of Cutwa, with full powers.

Tried before Mr J. H. Young, sessions judge of East Burdwan, on the 20th July, 1855.

Remarks by the sessions judge—In this case the burglary has been clearly proved to have taken place and the prisoner Gopaldas Byragee, No. 6, to have been seized at the time and in the very act. As to his guilt there cannot be any doubt whatever. It is also proved that the greater portion of the property was found in the house of Kaleechurn, prisoner No. 11, and it has been clearly shown that that property belongs to the prosecutor. In accordance with the *futwa* of the law officer, I convict Gopaldas Byragee No. 6, of burglary in the house of Troylokonath Nondee, on the night of the 17th April last, and Kaleechurn Shaw, No. 11, of knowingly receiving and having in his possession the stolen property acquired in the above burglary, and sentence both (for I cannot see any difference between the crime of the actor and the passive instrument in such a case) to ten years' imprisonment with labor in irons. The stolen property will be delivered up to the prosecutor.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Independent of the evidence of the witnesses to the same effect, there is the confession of the prisoner himself that he was taken in the act by the prosecutor having entered his house by a hole in the wall, and when discovered, attempted to conceal himself under a *charpoy*. The prisoner has been able to say nothing in appeal, and we see no reason to interfere with the sentence passed upon him.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT AND BULJEET GOALA

versus

ROOPCHAND ROY (No. 14,) SEEBOO SINGH (No. 15.)

Pati 185 — October 4. Case of ROOPCHAND ROY and another. Appeal rejected.

CRIME CHARGED.—Culpable homicide of Kannye Goala, deceased.

CRIME ESTABLISHED.—No. 14, culpable homicide of Kannye Goala, deceased, and No. 15, being an accomplice in the same.

Committing Officer.—Mr. F. A. Vincent, deputy magistrate of Barh.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 8th June, 1855.

Remarks by the officiating sessions judge—The deceased, a man 50 years old, was reaping his crop of wheat on a Thursday in Choit last, when the prisoners Roopchand and Seeboo Singh, with Sewchurn, absent (the brother of the first and the brother-in-law of the last), came up and claimed half of it, on the ground that it had been tilled with their (Sewchurn and Roopchand's) plough. The deceased resisted the claim. He said his opponents were entitled to no share of the crop, as their plough had been used in lieu of a sum due to him for five days' wages as a ploughman. On this, the prisoner Roopchand at the command of Sewchurn and Seeboo struck the deceased several blows with his fists and feet, so that the deceased fell to the ground almost senseless, his friends afterwards leading him off the ground, and taking him home. He *walked* home with their assistance. From that day to the following Tuesday, when he died, he was unable, though previously a hale strong man for his age, to do work, but he could go about a little, complaining much of a severe pain over the liver. The three witnesses marginally* named, all witnessed the assault from a short distance, are consistent, and speak of their own personal knowledge of the matter in dispute. Of the two witnesses to the "*sooruthal*" who have given evidence before me, "Momut" says, there were no marks of violence on the body after death, but the native doctor, Sheikh Chundan, affirms that the death of the deceased was caused by some external blow, the marks of which were not visible in consequence of partial decomposition, but which had ruptured some of the small veins of the intestines.

* Dobree, Ramchurn and Budhoo.

The prisoners made no defence properly so called. [They] said they had no quarrel of any kind with the dece[ased] and knew nothing of the cause of his death. They

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Case of ROOPCHAND ROY and another.

ignorance too as to the whereabouts of Sewchurn, who has hitherto eluded capture. The evidence of their witnesses is equally unsatisfactory.

In this case the prosecutor is a Goala and all his witnesses are Goalas, the prisoners are Rajpoots and all their witnesses are Rajpoots.

In concurrence with the law officer, I convict the prisoner Roopchand of the culpable homicide of Kannye Goala, deceased, and Seeboo of being an accomplice in the same, and I sentence Roopchand to four years, and Seeboo to two years' imprisonment, both without labor or irons

Remarks by the Nizamut Adawlut—(Present· Mr. B. J. Colvin.) The Court see no reason for interference The evidence proves the case against the prisoners, whose appeal I reject.

PRESENT:

B. J. COLVIN, Esq., *Judge*.

GOVERNMENT AND POKARAM

versus

GUNGARAM DOSS (No. 1, APPELLANT,) AND PETUMBER DOSS (No 5)

Dacca

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Case of GUNGARAM DOSS and another.

The prisoner's appeal was rejected upon proof of his guilt from his own admissions.

CRIME CHARGED —1st count, theft from the house of the prosecutor of money and ornaments to the value of Rs 518-12-1⅓; 2nd count, having in their possession stolen property knowing it to have been obtained by theft, 3rd count, being privy to the above theft.

CRIME ESTABLISHED —No 4, possessing stolen property knowing the same to have been so acquired, and being privy to the theft; No. 5, possessing stolen property, knowing the same to have been so acquired.

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr S. Bowring, sessions judge of Dacca, on the 29th June, 1855.

Remarks by the sessions judge.—The prosecutor stated, that after securing the two doors of his house, he went out, and on return went to sleep without observing whether *both* doors were safe or not. The next morning he discovered, that a *mutka*, in which jewellery to a considerable amount was kept, had been broken, and the contents carried off. He made inquiry, but applied to the police only four days afterwards. The police darogah seems to have employed some spy, and the property was found in the possession of parties with whom it had been pledged.

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These persons gave it up, and two of them were made witnesses by the magistrate.

The prisoner No. 4, admitted having received the property from the thieves, and pledged it, as deposed to by the witnesses.

The prisoner, Petumber, pleaded throughout, that he was not aware of the property having been stolen, he having received it from his uncle (the other prisoner) as the property of the talookdars, who were in arrears of rent. He called witnesses, but those before whom he said he had received the property, professed ignorance of the matter, and one or two only deposed favorably to the prisoner's character.

The law officer convicted the prisoner No. 4, on the 2nd and 3rd counts, and prisoner No. 5, on the 2nd, in which verdict I concurred.

The prisoner, Petumber, according to his own account, received the property of Gungaram. It was valued variously at from Rs. 150 to Rs. 230, by the prosecutor and witnesses, yet he only advanced 50 Rs. on it, while other parties, acquitted, advanced 100 Rs. on articles of far less value. He is a small village gomashta, quite unaccustomed to transactions even of this extent, and though he gave up the property when called on, and one or two witnesses gave him a good character, this seemed not sufficient to counterbalance the facts proved against him. The manner in which he accounted for possession of the property, shows that he must have been aware that it had not been honestly obtained, whether he may or may not have known of the theft of which it was the produce.

Sentence passed by the lower court.--No. 4 to 5 years and No. 5 to 3 years' imprisonment, both with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) It is evident from the answer of the prisoner, both before the magistrate and sessions judge, that he received the property, knowing it to be stolen. His appeal is rejected.

PRESENT:

B. J. COLVIN, ESQ., *Judge.*

GOVERNMENT

versus

NOTOBUR SATGOPE ALIAS NATTA SATGOPE.

Nuddea.

1855.

October 4.

Case of NOTOBUR SATGOPE *alias* NATTA SATGOPE.

Appeal rejected.

CRIME CHARGED.—Wounding with intention to murder witness No. 1, Doorga Bewah.

CRIME ESTABLISHED.—Wounding with intent to murder witness No. 1, Doorga Bewah.

Committing Officer.—Baboo Issurchunder Ghosal, deputy magistrate of Santipore.

Tried before Mr. R. M. Skinner, officiating sessions judge of Nuddea, on the 20th August, 1855.

Remarks by the officiating sessions judge.—It appears from the evidence that the prisoner had intrigued with Doorga Bewah witness No. 1, but she had for some time past refused to receive his visits, as her son had deserted her, and her relatives were displeased with her on account of her misconduct.

On the night in question* when she, witness No. 1, and her mother, witness No. 2, were sleeping outside the house, the prisoner cut her with a sword (the scabbard of which was found† near the spot, in the morning, by Radhamunee.)

A sister‡ of witness No. 1, hearing her mother's cries came out and saw prisoner running away, and she with neighbours§ who came up saw her sister lying bleeding.

Witnesses|| to the *sooruthal* testify to the darogah's description of the wounds. The sub assistant surgeon,* witness No. 7, testifies that there were two severe incised wounds, caused by some sharp instrument. One on the head, and one on the forehead, and two slighter wounds on the shoulders and a scratch on the hand; witness No. 1, went into hospital, on 26th May, and recovered sixteen days afterwards. The prisoner confessed in the mofussil and before the deputy magistrate of Santipore, that he had intrigued with witness No. 1, and that he beat her on the night in question, on the head and body, with a split bamboo. The jury give a verdict of "guilty."

* Witness No. 1, Doorga Bewah.

† Witness No. 2, Radhamunee Bewah.

‡ Witness No. 11, Mirus Ghosanee.

§ Witness No 15, Nundo Pal.
" " 16, Sonatun Ghose.
" " 3, Mohesh Pal.
" " 4, Roopchand Sircar.

|| Witness No. 3, Mohesh Pal
" " 4, Roopchand Sircar.

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They explained verbally that the wounds were inflicted on such places and with such a weapon as to endanger life, thus manifesting intent to kill.

The prisoner names no witnesses in his defence. I concur with the jury in opinion, and convicting the prisoner of the crime charged, I sentence him to fourteen years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) There is no reason to doubt the prisoner's guilt. I reject the appeal.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

BHOGRAM GOGORI ALIAS GOPEENATH HOROO BAPPA.

Assam.

1855.

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Case of BHOGRAM GOGORI alias GOPEENATH HOROO BAPPA.

The prisoner was convicted of assaulting his sister-in-law, of burning the houses occupied by his family and of the culpable homicide of a man, who tried to apprehend him, and was sentenced to transportation for life

CRIME CHARGED.—1st count, wilful murder of Noreim Gohani, on the night of the 7th May, 1855; 2nd count, wounding with intent to murder Musst. Siotee, on the night of the 7th May, 1855: 3rd count, arson.

Committing Officer.—Captain C. Holroyd, magistrate of Seebsagur.

Tried before Major H. Vetch, deputy commissioner of Assam, on the 17th August, 1855.

Remarks by the deputy commissioner.—It appears that the prisoner is the younger and unmarried brother of Bengallee Gogori, with whom and his young wife, Musst. Siotee, the prisoner resided and that two other brothers, Dumbroo and Mohun, with their wives, occupied houses adjoining. Bengallee Gogori was from home and the two other brothers with their wives had gone to a wedding in the neighbourhood. The prisoner and Musst. Siotee with her infant were the only persons left at the homestead, and it has been alleged that there had been a criminal intercourse between the prisoner and her (his sister-in-law); be that as it may, he appears to have gone to her sleeping apartment on the night in question, which led to a quarrel when he beat her most cruelly, and afterwards set fire to the houses of the family. The flames attracting the notices of the wedding party the deceased, his brothers Seesoo and Gheen Gohain went to the spot, and saw the prisoner with a *lattee* or bludgeon in his hand; on Seesoo approaching, prisoner asked him what had brought him there, and drove him away with a blow

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waist; the deceased then went up to apprehend prisoner who felled him to the ground by a blow of the *lattee* which smashed his skull about the ear, exposed the brain, and from the effects of which he died the following night Seven huts and all the property they contained were consumed, and Musst Siotee appears to have, with difficulty, saved her infant from the flames.

The prisoner pleaded *not guilty*, and alleged in his defence, that feeling unwell he had inhaled *ganjah* and was so completely under its influence, that he cannot tell whether he committed the crimes or not

Witnesses, No 1, Gheen Gohain, and No 2, Seesooram — Witnesses Nos 1 and 2, were attending a marriage in the neighbourhood, when flames were observed at the homestead of Bengallee Gogori and they, in company with the deceased and others, went there for the purpose of extinguishing them, and saw the prisoner with his loins girded, and a *lattee* in his hand with which he struck the witness No 2 on the waist and drove him back. Deceased next approached, and asked prisoner why he had set fire to the houses, when he with the *lattee* felled deceased to the ground by a blow on the head, which fractured his skull and from the effects of which he died the following night Seven huts with all the property they contained were consumed. Witnesses heard that there had been a criminal intercourse between the prisoner and Musst Siotee for about a year, and that her refusing to comply with his wishes to renew it on that night was the cause of his beating her most severely

Witness No 3, Chotee Gohain — Witness No 3 deposed that on the night in question all the neighbours had gone to the marriage at the house of Bhogram the witness, only staying at home, and seeing Bengallee Gogori's house on fire, went to the spot, and there saw the deceased lying in the yard in a state of insensibility with a fracture on the skull from which the brain protuded, and heard from witnesses Nos 1 and 2, that the wound had been inflicted by the prisoner He assisted them in removing the wounded man to the house of Lokenath, where he died the following night Witness also saw Musst Siotee lying in a helpless state at the house of Gheenloggah with marks of wounds and bruises on her person, heard the same cause assigned as that given by the witnesses Nos 1 and 2, for prisoner having beaten her and set fire to the houses

Witness No 4, Musst Siotee — No 1 deposed, that all the other members of the family except the prisoner, herself and infant had gone to the wedding, and the prisoner taking advantage of their absence entered her apartment and was taking away a box containing her ornaments This she resisted, a struggle ensued, when the prisoner became enraged, seized her by the hair and beat her so severely that she became insensible,

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in which state she supposed she must have remained for about two *dunds*, (forty minutes), when recovering she saw the houses on fire, and with difficulty saved her infant from the flames. She was carried to the house of Gheeuloggah where she remained in a helpless state for six days, that blood flowed from her head and mouth, and her body bore marks of the beating she had received, she does not know what she stated when examined by the police, as she had not at that time recovered her senses, but she denies that she ever had criminal connection with prisoner, or that he had come to her for that purpose.

Witness No. 5, *Brissosain Mouzadar.*—States that the prisoner came to his house on the night in question with a *lattee* in his hand, and immediately after Hemkant and Nepoie Teklah arrived, who told him that prisoner had beaten Musst. Siotee and Narain Gohain, and fired the houses; on hearing which he apprehended the prisoner and went himself to the place where he saw that seven huts had been burnt, the deceased lying senseless at the house of Lokenath with a fracture wound about the left ear, four fingers in diameter, from which the brain protruded and from the effect of which wound he died, also that the prisoner confessed to him that he had struck deceased on which he sent him to the thannah. Prisoner did not then appear to be intoxicated.

Witness No. 6, *Hemkant Sudoonidar.*—Witness No. 6, to having been attracted to the spot by the flames, and on the way met with witness No. 2, who told him what had happened; on coming nearer he saw the prisoner running with a *lattee* in his hand, and saying he had fired the houses. Witness being afraid avoided him, and went with Nepoie to the Mouzadar where he saw the prisoner apprehended and afterwards accompanied the Mouzadar to the spot, and corroborates what he has stated, also deposes to the bruise and bloody state in which he saw Musst. Siotee, who said that the prisoner had come to her room to satisfy his criminal desires, on her refusing to comply he went away, but returned, and asked for a rupee, and not getting it severely beat her with a piece of wood belonging to a loom, and set fire to the houses, from which she, with difficulty, rescued her infant.

Witness No. 10, *Bhokulram, native doctor.*—Witness No. 10, to having examined the corpse of the deceased, and found two wounds over the ear, four fingers in diameter. The skull was then fractured into ten or twelve pieces, and the brain exposed, the wounds had been inflicted with a *lattee* and had caused the death of the deceased. On Musst. Siotee there was a wound on the head two fingers long, another on the knee, and some bruises on the neck and waist, but none of them of a dangerous description.

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Witness No. 11, *Lokenath.*—Witness No. 11, to having seen the wound on the head of the deceased which caused his death, and to hearing that it had been inflicted by the prisoner.

Witness No. 12, *Mossaie.*—Witness No. 12, to the destruction of the seven huts by fire, to seeing Musst. Siotee lying in a helpless condition, and hearing from her that the prisoner was the guilty person, also to the same effect as No. 11.

Witnesses Nos. 13 *and* 14, *Dumbroo and Mohun.*—Witnesses Nos. 13 and 14, to the destruction of the huts by fire, to hearing that Siotee had been beaten by the prisoner and to having seen the deceased next day lying in a state of insensibility, and hearing afterwards of his death, Mohun adds that the prisoner had taken *gunjah* on the day in question.

Witness No. 15, *Bengallee Gogori.*—Witness No. 15, to hearing of the events on his return home, and that his wife Musst. Siotee told him that the prisoner had beaten her in consequence of a quarrel about taking her box of ornaments.

Witness for the defence, No. 1, *Gheealugga, No.* 2, *Musst. Molla.*—No. 1 knows nothing about the prisoner's having taken *gunjah,* No. 2, that she was told by the prisoner that he had felt unwell and had taken *gunjah* the evening in question.

Verdict of the jury and magistrate.—The jury and magistrate convicted the prisoner of culpable homicide, aggravated by a violent and brutal assault on Musst. Siotee, but acquit of the intent to murder her, also find him guilty of arson.

Remarks by the deputy commissioner.—That the prisoner Bhogram *alias* Gopeenath killed the deceased Narain Gohain, and grievously wounded Musst. Siotee is, in my opinion, fully proved by the evidence, and that he fired the houses is also established on violent presumption, yet as the prisoner appears to have been previously of a quiet good temper, it seems difficult to account for the commission of such atrocities on the ground assigned by Musst. Siotee in her deposition, and I think it most probable that foiled in his criminal desires on her, and enraged at some thing she had done or said and perhaps maddened by the effects of *gunjah* he lost all control over himself, and in a fit of ungovernable passion, brutally assaulted her and committed the other acts, none of which appear to have been premeditated, I would therefore convict him of the culpable homicide of Narain Gohain (falling little short of wilful murder), and aggravated by wounding (but without intent to kill) Musst. Siotee, and arson, and recommend that he be sentenced to imprisonment for life with labor and irons in transportation.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The whole circumstances of this case are very fully detailed by the magistrate and the deputy commissioner. The prisoner is clearly guilty of the assault upon his sister-in-law, the wanton burning and destruction of

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the houses occupied by his family, and the culpable homicide of Narain Gohain Ahun, and looking at the very aggravating circumstances attending the commission of these offences, we cannot do less than sentence the prisoner, as recommended by the deputy commissioner, to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND TARACHAND BOSE

versus

RAMDHUN BAGDI CHOWKEEDAR (No. 2,) AND KHYROLLAH MUSSULMAN (No. 3.)

East Burdwan.

1855.

October 4.

Case of RAMDUHN BAGDI CHOWKEEDAR and another.

The prisoners were convicted of severely wounding with intent to murder the prosecutor, and were sentenced to twelve years' imprisonment. Appeal rejected.

CRIME CHARGED.—Severely wounding, with intent to murder, the prosecutor, Tarachand Bose, the prisoner No. 2, being a police chowkeedar at the time of the occurrence.

CRIME ESTABLISHED.—Severely wounding, with intent to murder the prosecutor.

Committing Officer.—Mr. W. H. Lawford, officiating magistrate of East Burdwan.

Tried before Mr. J. H. Young, sessions judge of East Burdwan, on the 21st July, 1855.

Remarks by the sessions judge.—The assault, which forms the subject of this enquiry, took place upwards of four months ago, and the prosecutor is in such a weak state at the present time that he had to be supported into court, where I gave him a chair, and after a time I allowed him to retire altogether as he seemed in such a weak condition. The wounds upon his person are most severe, so much so that the native doctor said they might have cost him his life, and that he certainly would never recover the entire use of his right arm. The question is, who inflicted these wounds? Three witnesses besides the prosecutor himself positively swear that the two defendants were the parties, that they saw them in the act, and that when they attempted to interfere the prisoners threatened to kill them. Two other witnesses swear that they saw the prisoners running away from the spot with drawn swords; prisoner No. 2, makes no defence at all beyond a simple denial, and prisoner No. 3, tries and fails to prove an *alibi*, for in fact he proves that he was at the village where the assault took place and that he had gone there that evening from Burdwan. The counsel for the prisoners tried to make out a story that the prosecutor had gone to visit a female friend, and that on leaving her house

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some rival had wounded him, but there was no attempt even to substantiate this tale. The law officer finds both the prisoners guilty of the crime with which they are charged, i. e. severely wounding, with intent to murder the prosecutor, and I entirely concur in his finding. I can find no difference between the guilt of the prisoners; both are equally culpable, although the prosecutor only recognized No. 2, as having actually struck him, yet No. 3 was there present with a sword, and from the evidence of other witnesses was found to have taken an active part in the business. I sentence both prisoners to twelve (12) years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoners have been represented before us by the pleader Murhumut Hosain, who has pleaded that there are such discrepancies in the depositions of the witnesses that their evidence cannot be deemed trustworthy, and that there was no reason for such enmity on the part of his clients as to induce them to attempt the life of the prosecutor. We find that the descrepancies alluded to by the pleader are very immaterial, and the statements of the witnesses, on the whole, consistent and conclusive as to the prisoners being the persons who assaulted and wounded the prosecutor. The fact of that assault having been made with swords and when the prosecutor was alone and towards nightfall, fully justify the belief that it was done with murderous intent. We see no reason to interfere with the conviction and sentence.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT AND KULLO MISSER

versus

IMRIT.

Patna.

1855.

October 4.

Case of IMRIT.

The prisoner, who was named on the first trial, was, on his subsequent apprehension, convicted.

CRIME CHARGED.—1st count, highway robbery and theft of a gold chain valued at Rs. 256-8; 2nd count, assault and theft from the person of the prosecutor of a gold chain valued at Rs. 256-8.

CRIME ESTABLISHED.—Assault with theft (i. e. theft with violence) of property of the value of Rs. 256-8.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 11th June, 1855.

Remarks by the officiating sessions judge.—This case was tried with respect to another prisoner, on the 10th April last, when *he* (Mooneea) was convicted of theft with violence and sentenced to (7) seven years' imprisonment, with labor and irons, in banishment.

In *that* trial the three eye-witnesses, Boolakee, Buyjnath, and Moonee all stated the prisoner in this calendar to have been engaged in the robbery; and that, while Boolakee and Jhoonee were assaulting the prosecutor, and Moonea threatening the prosecutor's servant, the witness Boolakee, the prisoner with the assistance of one Boolka, not apprehended, seized and broke prosecutor's gold chain from off his neck and made away with it.

Boolakee and Buyjnath, witnesses to the fact, have been again examined to-day, and have both repeated the substance of their former depositions, and have recognisad the prisoner as the "Imrit" therein spoken of. They have known him some years they say as a lounger about the city.

Konhai and Runjeet have testified to having seen and recognised the prisoner, whom they knew before, while running away with others from the spot after the theft.

Prisoner says he was with the prosecutor on the night in question, *and that he always accompanied him at night for purpose* of sodomy: and that since the theft he has relinquished prosecutor's society, and has thus out of spite been accused of complicity in the robbery as having caused or induced the thieves to attack him. The prisoner adds he has lived with and on prosecutor for some years, and that he left Patna after the theft to visit his mother at Palaisor in the Chuprah district (he was apprehended in the city of Patna at a toddy-shop.)

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The prisoner has examined five witnesses, one of whom is the prosecutor. He repudiates the prisoner's statement altogether; but the other four, (three brothers and their servants, but all undoubtedly respectable men) support it so far that although unable to clear the prisoner of complicity in the theft, they assert positively and unequivocally that he (the prisoner) has been in the service of and living with the prosecutor as his "*loundah*" for some years; that they have themselves constantly seen him at home in the prosecutor's shop; and that the latter point is notorious throughout the neighbourhood. The prisoner stated as much before the darogah when first apprehended (for he said, *he accompanied prosecutor every night to the bank of the river*, &c.) and before the magistrate he was evidently cut short in his history, as he says before me. There is no doubt he absconded when the charge was preferred against him. The prosecutor had ample time from 11th to 19th March to turn the report about his theft, which the darogah heard on the 13th, so as to save as far as possible his own reputation.

I am of opinion that the prisoner has been for years living with prosecutor as his sodomite, that on the night in question he was as usual in company with prosecutor; and that the robbery was effected through his contrivance and with his participation.

In concurrence therefore with the law officer, I convict him of the second count of the charge, assault with theft (i. e. theft with violence) of property of the value of Rs. 256-8, and I sentence him to, in all, seven years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlat.—(Present: Mr. B. J. Colvin.) There is no reason to doubt the propriety of this conviction. The prosecutor in the first place made no complaint against any one; but only gave his deposition, when an inquiry was directed by the magistrate, to whom the occurrence was reported by the police, so that the charge of enmity is without foundation.

The witnesses on the former trial, all spoke of the prisoner as pulling the gold chain from the prosecutor's neck, and that the prosecutor was robbed of it, is acknowledged even by the prisoner. I reject the appeal.

It has already been pointed out on the trial of Mooneea (see Nizamut Reports, dated 20th July last,) what the conviction should have been.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND ALUM GAZI HOWLADAR

**versus*

BAROO BHOOYEAH (No. 26,) SHEIKH OOMUR (No. 27,) AND KALOO SURDAR (No. 28.)

Backergunge.

1855.

October 4.

Case of BAROO BHOOYEAH and others.

In a case of dacoity with wounding, the conviction and sentence passed by the sessions judge was affirmed as to two prisoners, but reversed as to a third.

CRIME CHARGED.—Dacoity, attended with wounding of the prosecutor in which property to the amount of Co.'s Rs. 1581-15 annas was carried off.

CRIME ESTABLISHED.—Dacoity, attended with the wounding of the prosecutor.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 21st June, 1855.

Remarks by the sessions judge.—I tried this case alone under the provisions of Act 24, of 1843.

The dacoity took place on the night of the 17th of March, two houses were robbed, the house of the prosecutor Alum Gazee and the house of Mahomed Kaem witness No. 1, a relation of the prosecutor, residing on one homestead; property consisting principally of cash was carried off to the amount of Rs. 1581-15 annas. The dacoits reside in this district within the jurisdiction of the Gournuddy thannah, but at a distance of three days' journey from the village in which the robbed parties reside. The prosecutor was beaten and otherwise ill-used and wounded but not seriously so; two torches burnt out were found in or near the prosecutor's house. The dacoits were pursued by the villagers and amongst them by Sonaoollah chowkedar No. 6, Aunundee No. 7, Mahur Gazee No. 8. The prisoner No. 26 was seized on the night of the dacoity whilst attempting to swim across the river, near the house of the prosecutor, certain property, belonging to Mahomed Kaem, witness No. 1, was dropped by the prisoner No. 26, and was recovered; this property has been identified as belonging to Mahomed Kaem witness No. 1, by the witnesses noted in the margin.* The prisoner No. 26, Baroo Bhooyeah, confessed before the police and by his confession implicated the two other prisoners in this case, as well as other parties, his confession has been proved by the witnesses, noted in the margin.† He denied both before the magistrate and in this court. The witnesses for the defence depose to nothing good or bad for him. This prisoner was

* Witness No. 23, Sudderooddeen.
 " " 24 Nojomooddeen.

† Wit. No. 11, Dengur.
 " 12, Mohamed Azeem.

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seized in the act of attempting to swim across the river near the prosecutor's house, and property was found on the banks of the river, which had evidently been dropped by him, and he confessed before the police. Although he urges before this court, that he went to the village where plaintiff resides to search after his brother Gopal Sikdar and was seized in an open plain, and at night, time by the villagers and falsely accused of the dacoity; this story is highly improbable, the prisoner's house is three days' journey from the village in which plaintiff resides, and no reason is given why the prisoner should proceed to that village in search of his brother, or why he should be abroad late at night; considering therefore the crime of dacoity attended with wounding proved against this prisoner, I sentence him as shown below.

The prisoner Sheikh Oomur No. 27, confessed before the police and before the magistrate and produced before the police 2 Rs., which he stated he had obtained as his share of the property robbed. The mofussil and foujdaree confessions are proved by the witnesses noted in the margin.* The evidence for the defence does not in any way exculpate the prisoner who has been sentenced as shown below.

The prisoner No. 28, Kaloo Surdar, confessed in the mofussil but not before the magistrate. The mofussil confession is proved by the evidence of the witnesses noted in the margin.† His name is mentioned in the confessions of the prisoners Nos. 26, and 27, and he is a relation of the latter. This prisoner also is identified by witness No. 1, Mahomed Kaem as having come to the village where the witness resides, on the day before the dacoity, on the pretence of wishing to purchase paddy, he resides in the Gournuddy thannah jurisdiction at a distance of three days' journey from the house of the prosecutor, the evidence of the witnesses for his defence does not exculpate him. I convict him of dacoity attended with wounding and sentence him as follows:

Sentence passed by the lower court.—Nos. 26 and 28 to be imprisoned for eight (8) years, and No. 27, for seven (7) years, each, with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The evidence against the prisoners Baroo Bhooyeah and Sheikh Oomur seems satisfactory enough, but that against Kaloo Surdar is not, in our opinion, legally sufficient to ground a conviction. We direct his acquittal and confirm the sentence passed against Baroo Bhooyeah and Sheikh Oomur.

* Mofussil confession.
Witness No. 14, Mahomed Abbass.
" " 15, Neamutoollah.
Foujdaree confession.
Witness No. 20, Busheerooddeen.
" 21, Mahomed Hussein.
" 22, Kaemooddeen Mahomed.

† Witness No. 17, Jugbundoo Dey.
" " 18, Kuddum Gazee.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT

versus

GONY SHANNAH.

Jessore.

1855.

October 4.

Case of GONY SHANNAH.

The prisoner was acquitted of perjury, as the deposition on which the charge was based was unnecessarily taken on oath.

CRIME CHARGED.—Perjury in having on the 19th June, 1855, corresponding with 6th of Assar 1262 B S. deposed under a solemn declaration taken instead of an oath before the officiating magistrate of Jessore that, "I never gave in a petition of theft before the darogah," that "I never saw the darogah," and that "the darogah never went to the mofussil;" such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Mallet, officiating sessions judge of Jessore, on the 28th August, 1855.

Remarks by the officiating sessions judge.—It is fully proved that the prisoner made a complaint before the darogah of the thannah where his house is situated, in the usual manner, that a theft had taken place in his house, and the darogah accordingly proceeded to make the investigation; when the case came before the magistrate and the man was put on his oath, he denied having made the complaint or that any enquiry was made by the darogah. His deposition to this effect is with the *nuthee*, and it has been proved by competent witnesses that he gave it before the magistrate on oath. Before me as before the magistrate when accused of the falsehood he allowed it, but said that he was not in his right senses at the time, but brings no witnesses to show that such was the case.

I tried the case with the assistance of a jury who have found the prisoner guilty; with their verdict I concur.

But thinking, with reference to a somewhat analogous case Shehadut Khan, as reported in Volume IV. of Nizamut reports, page 101, that the case is not deserving of so severe a punishment as three years' imprisonment, there being neither fraud nor malice to be attributed to the defendant, I beg to refer the case under Section 9, of Regulation XVII. Clause 3, for such orders as the Court may think fit; I should think that six (6) months' simple imprisonment would be sufficient punishment.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The prisoner cannot be legally convicted of perjury in this case. It appears that the darogah having

reported the charge of theft brought by the prisoner not proved, the magistrate sent for him and his witnesses. On his arrival he was at once examined on oath, when he said he had no charge to prefer against any person, and that he had not preferred one before the darogah. As he had no complaint to make, his examination on oath by the magistrate was unnecessary, and as the charge of perjury is based upon what he was so sworn to before the magistrate, no conviction can follow. We acquit the prisoner and direct his release.

1855.

October 4.

Case of GONY SHANNAH.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND DAMREE

versus

DULJEET SINGH.

Patna.

1855.

October 4.

Case of DULJEET SINGH.

The prisoner was convicted as an accomplice in incendiarism and sentenced to fourteen years' imprisonment.

CRIME CHARGED.—Being accomplice in incendiarism whereby corn, to the value of Rs. 1,000 or thereabouts, the property of plaintiff, was destroyed.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 15th September, 1855.

Remarks by the officiating sessions judge.—On the night of the 31st March, 1854, prosecutor was sleeping in his stack yard containing a great deal of grain. About midnight he was disturbed by the approach of three persons, Nowreet, Soocheet, and Duljeet (the prisoner) three brothers with some others. At first it appeared as if they were going to plunder the grain, but there was an alarm of thieves and the persons named, set fire to the stacks and ran off, the strong light of the fire revealed the three chief offenders to the prosecutor and two of ends, who ran up on the alarm being given, the witnesses Singh and Dhotal Goala, and who were also watching own grain close by. Subsequently the police apprehended Nowreet Singh (the two brothers evading pursuit) who, on the 7th June, 1854, was sentenced by the sudder Court to fourteen years' imprisonment with labor and irons for "being an accomplice in incendiarism in having destroyed by fire corn to the value of Rs. 1,000 or thereabouts, the property of the prosecutor."

Soojeet, who had been previously convicted of and suffered five years' imprisonment for theft, has not been caught. The prisoner now under trial, the 3rd brother, has been also convicted

1855.

October 4.

Case of DULJEET SINGH.

before *twice*, once of being a notorious bad character, and once of theft.

The witness Nurkoo Singh No. 1, re-stated a few days back before the magistrate, what he stated in 1854, in Nowreet's trial, viz., that he saw and recognised the prisoner with his two brothers while committing the crime charged in the second count of the indictment. Before me he says he saw and recognised no one at the time, and I have ordered his committal for perjury. He is of the same caste as the prisoner, and has been clearly bought over. The second witness, however, Dhotal Goala, repeats his former evidence, which is, that the three brothers were seen, one setting fire to, and the others, Nowreet and the prisoner Duljeet, aiding and abetting, with arms in their hands, their brother Soojeet setting fire to the grain.

The prisoner pleads an *alibi*, but on this point his witnesses say nothing whatever on his behalf. On the contrary two of the three examined, speak against him, and the 3rd Soorut Singh, No. 4, was I discovered prisoner's first cousin. He denied all relationship when asked the question, and he too has been committed for perjury on sufficient evidence. There is no caste in this province so given to judicial perjury as these "Bhamuns."

The law officer acquits, in that there is but one witness for the prosecution, but under the circumstance of the case (and *both* witnesses state prisoner is Duljeet, Nowreet Singh's own brother) I think the evidence quite sufficient, and I beg to recommend that the prisoner be imprisoned with labor and irons on the second count for ten years.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prosecutor's statement is fully corroborated by the evidence of the witness Dhotal, and is sufficient for the prisoner's conviction, notwithstanding that Nurkoo Singh, who had previously deposed for the prosecution, swerved from his former statement in the sessions court. Considering the large amount of property, which has been destroyed by the malicious act of the prisoner and his previous convictions, as stated by the sessions judge in his letter of reference, we sentence the prisoner to fourteen years' imprisonment with labor in irons.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND BHOBANEE KYBURTNEE

versus

NUBOO KAWRAH (No. 1,) KASSEE KAWRAH (No. 2,) PROSUNNOO KAWRAHNEE (No. 3,) AND SEEBOO KAWRAH* (No. 4.)

24-Pergunnahs.

1855.

October 5.

Case of NUBOO KAWRAH & others.

The prisoners were convicted of robbery by intimidation of the prosecutrix as she was running away from her husband to her father's house.

Appeal rejected.

CRIME CHARGED.—1st count, prisoners Nos. 1 and 2, highway robbery and plunder of a pair of silver armlets worth Rs. 5, from the person of the prosecutrix; 2nd count, prisoner No. 3, being an accomplice in the above crime; 3rd count, prisoner No. 4, being an accessary after the fact; and 4th count, prisoners Nos. 1 and 2, having in their possession the above plundered property knowing the same to have been acquired by highway robbery.

CRIME ESTABLISHED.—No. 3, robbery by intimidation, and Nos. 1 and 2, being accessaries to the same before and after the fact.

Committing Officer.—Mr. F. R. Cockerell, officiating magistrate of Howrah.

Tried before Mr. C. Steer, additional sessions judge of the 24-Pergunnahs, on the 15th May, 1855.

Remarks by the additional sessions judge.—The prosecutrix had run away from her husband and was going to the house of her father, when passing the dwelling of prisoners, No 1, Nuboo, and No. 2, Kassee, they entered into conversation with her and induced her to go in and sit down. Prisoner No. 3, Prosunnoo Kawrahnee almost immediately took off from the prosecutrix's person a pair of silver armlets she had, telling her at the same time to run off as fast as possible, as the male prisoners, No. 1, Nuboo, and No. 2, Kassee, the one her brother-in-law, the other her husband, were at that moment in the next apartment consulting how they might not only rob her, but murder her. The prosecutrix accordingly abandoned her jewels with prisoner No. 3, Prosunnoo Kawrahnee, and ran off from the premises terrified almost out of her senses. In that state she fell in with witnesses, No. 21, Madhub, and No. 22, Jadub, who, with several other persons, were engaged at working in a sugar manufactory, hard by the house of the prisoners. Before the prosecutrix had sufficiently recovered her presence of mind to afford a full account of what had happened, the prisoners Nos. 1, 2 and 4, appeared at the factory and demanded that the prosecutrix

* Acquitted by the lower court.

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October 5.

Case of NUBOO KAWRAW & others.

should be forthwith given up to them; but witnesses Nos. 21 and 22, refused to let her be taken away. Hearing from her that the prisoners had robbed her of a pair of armlets, they were trying to reason the prisoners into consenting to return them, when witness No. 15, Baboollah, a relative of a police peon, accidentally came up. The matter was referred to him and all the parties were proceeding to the prisoners' house in order that the armlets might be restored to the prosecutrix, if they could be found there, when they fell in with witness No. 16, Talab, a police peon. Hearing the particulars of the prosecutrix's story he joined the party proceeding to the prisoner's house and out of it was found, after some search, the very armlets which had been stolen from the prosecutrix. The mohurrir of thannah Doompore, arriving in the village on his way to the thannah, received the charge of all the parties and proceeded with them to the thannah.

The prisoner No. 3, Prosunnoo Kawrahnee, in her confessions before the police and before the magistrate confirmed the prosecutrix's account on all essential points from beginning to end.

The prisoners, No. 1, Nuboo, and No. 2, Kassee, both denied that they took any part in the robbery, and stated that the prosecutrix, being jeered by some rude fellows with being a runaway wife, took refuge in their house. That afterwards she left of her own accord and went and told witnesses Nos. 21 and 22, who were in a sugar-factory not far from their house, that the prisoners had robbed her of a pair of armlets. That these persons with many others came and made a search and found the armlets in their house.

The statement of the prisoners Nos. 1 and 2, in their trial at the sessions is very much the same as that they made in the foujdary. The prisoner No. 1 says the house in which the armlets are said to have been concealed is not his. Prisoner No. 2 says he was not present when the prosecutrix left his premises, meaning of course to have it inferred, that if his wife did really commit the robbery he was not present to partake in her guilt. They both averred that the accusation against them was made at the instigation of witness No. 21, Madhub, with whom the prisoners are at enmity.

The prisoner No. 3, Prosunnoo Kawrahnee, denies her confessions and affirms that the armlets were not found in her house.

After examining one witness to character, the prisoners Nos. 1 and 2, repudiated the rest of their witnesses.

There are no eye-witnesses to the robbery, but the prosecutrix's account is substantiated by the confession of the prisoner No. 3, Prosunnoo Kawrahnee, by the discovery of the stolen armlets from the prisoners' house, and by the corroborative

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Case of NUBOO KAWRAH & others.

testimony of witnesses, No. 21, Madhub, and No. 22, Jadub, to the effect that the prosecutrix was in great alarm (not without a reason of course) when she fled up to them straight from the prisoners' house. There cannot be the least doubt that the prisoner No. 3, Prosunnoo, is guilty of having actually robbed the prosecutrix by means of intimidation. From the prisoners, No. 1, Nuboo, and No. 2, Kassee, being the parties who called the prosecutrix into their house, from their admitted presence at the time on the same premises, and from the presumption of guilt arising from the nature of their defence, there is, I think, scarcely any doubt that they played a regular part in, and were accessaries to, the robbery both before and after the fact. Had not the prosecutrix taken refuge in the sugar-factory, I do not think that the prisoners would have troubled themselves to follow her. But knowing, as they must have done, that she would publish the robbery which had been committed upon her, when she could safely do so, the prisoners no doubt thought it the least suspicious course to put a bold face on their conduct, and in that spirit they followed her and claimed a right to have her restored to them.

The *futwa* of the law officer finds the prisoner No. 3, Prosunnoo Kawrahnee, guilty of robbery by intimidation, and prisoners No. 1, Nuboo Kawrah, and No. 2, Kassee Kawrah, guilty of being accessaries to the robbery both before and after the fact. I sentenced all three prisoners upon the above finding to three years' imprisonment, each with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The proof is clear and conclusive against the prisoners. We see no reason to interfere.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MOTEE DASS.

Shahabad.

1855.

October 5.

Case of MOTEE DASS.

Perjury committed by a Putwaree as to the correctness of his accounts punished by four years' imprisonment.

Appeal rejected.

CRIME CHARGED.—Perjury in having on the 17th and 25th October, 1854, intentionally and deliberately deposed under a solemn declaration, taken instead of an oath, before the collector of Shahabad that the village accounts of Mouza Dhurneepore Pergunnah Chowsall for the years 1257 and 1258, F. filed by him on the 29th December, 1851, and 17th October, 1854, were correct; whereas from the village account filed on the 29th December, 1851, it appears that the village accounts filed on the 17th October, 1854 are false and fabricated; such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. H. Richardson, officiating magistrate of Shahabad.

Tried before Mr. W. Taylor, sessions judge of Shahabad, on the 21st March, 1855.

Remarks by the sessions judge.—In this case the prisoner, who is a Putwaree, filed on the 7th October, 1854, the village accounts for 1257 and 1258.

These accounts being afterwards compared with accounts for the same year, previously filed, were found to differ materially from the latter in respect to the land and the assessment.

The prisoner, when examined by the collector as to the accuracy of these accounts, *swore* that both were correct. Whereas from the material discrepancy, it is utterly impossible that both could be accurate.

On these grounds he is held to be guilty of perjury under Section 26, Regulation XII. of 1817.

The prisoner pleaded *not guilty* but made *no defence.*

The witnesses examined on his behalf speak to his character.

The *futwa* convicted him of the crime charged and declared him liable to *tazeer.*

Sentence passed by the lower court.—To be imprisoned with labor in irons for (4) four years.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) After hearing Mr. Norris for the prisoner, we see no reason to interfere with the conviction and sentence.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND MUSST. MONY

versus

SIMBHOO.

Chota Nagpore.

1855.

October 5.

Case of SIMBHOO.

The prisoner was convicted of the wilful murder of his wife, who had been separated from him for several years, and cohabited with another man in the same village. Capital sentence not passed with reference to the provocation given, and the prisoner's diseased state.

CRIME CHARGED.—Wilful murder of Musst. Boondhwarin *alias* Sookro.

Committing Officer.—Captain W. H. Oakes, principal assistant commissioner of Lohardugga division.

Tried before Major J. Hannyngton, deputy commissioner of Chota Nagpore, on the 6th September, 1855.

Remarks by the deputy commissioner.—The prosecutrix states that her daughter Musst. Boondhwarin *alias* Sookro had gone to a pond to wash clothes. After a while, a girl named Munjhuree came and told the prosecutrix that the prisoner had beaten her daughter. Prosecutrix went and saw that the prisoner had been taken into custody, he was sitting on the ground and rocking to and fro. The prisoner and the deceased had been separated by mutual consent for six or seven years. She had formed a criminal intimacy with one Debu and after his death had, for a year and a half past, cohabited with one Ghassoe. They were both relatives of her husband. He had not intermediately any quarrel with her. Since last year the prisoner has given up work and has palsy, but is quite right in his mind.

The prisoner pleads guilty.

There is no witness of the fact except the child Munjhuree, who is too young to be put on her oath. It appears in evidence that when this child raised an alarm, several persons went to the pond and saw the prisoner sitting there. He at once said that he had killed Musst. Sookro with a club and had thrown her into the water. The body was not then visible, but after a while it rose to the surface and floated ashore. The deceased had separated from the prisoner for five or six years, and there had not been any further dispute between them. He had contracted another marriage. For a year past he has had palsy and neglected his ordinary work, but has been of sound mind.

No. 3, Mudhoo.
„ 4, Mocho.
„ 5, Loknath.
„ 6, Surdar.

The record of the inquest and the evidence of the native doctor,* who inspected the body, shows that there was a wound on the head of the deceased, sufficient to cause her death.

* No. 11, Boodhoo Raud.

1855. October 5. Case of SIMBHOO.

The prisoner, before the police officer and before the principal assistant, made voluntary confession that he had murdered the deceased, in anger, because she had left him and lived with another man. Having seen her going towards the pond, he followed her, and when she had waded thigh-deep into the water he struck her down. These confessions are duly attested by the subscribing witnesses.

No. 6, Surdar.
7, Singh Rye.
8, Boo Rye.
9, Juput Rye.
12, Sheikh Soontuf.
14, Byjoo Singh.

The prisoner in his defence says that he was not rightly sensible at the time. He killed his wife through anger, because she had forsaken him, and continued to live in the same village.

The jury named below* find the prisoner *not guilty*. They remark that the prisoner has neglected his business for a year, and from his demeanour in court they consider that his confessions, besides which there is no proof of his guilt, should not be received.

I cannot concur in this verdict. Before this court the prisoner's outward demeanour has been that of a weak-minded person, but he was throughout attentive to the proceedings, of which attention his defence is a marked proof. As to the evidence, I recount the following important circumstances. The child Munjuuree gave notice that the prisoner had killed Musst. Sookro. The villagers instantly went to the spot and there found the prisoner, who told them that he had murdered the deceased with a club, and that the body was under water. The villagers thereupon detained the prisoner, waited till the body rose and then discovered severe wounds on it. Add to this, that the deceased was the prisoner's wife, and that her misbehaviour, though not of recent date, might still rankle in the prisoner's mind and be the motive to the murder then, irrespective of the recorded confessions which yet I find no reason to reject, there is evidence enough to convict the prisoner.

As to the infirmity of mind, the witnesses, his fellow villagers, all say that the prisoner's intellect was not impaired.

The prisoner is apparently affected by that form of paralysis called shaking palsy, and, as one so smitten, is an object that excites compassion. To this feeling, not easily resisted, the jury has yielded; but I am perfectly satisfied that the prisoner was at the time of the murder, and is now a responsible agent.

Whether the moral effect of a capital sentence will in this case be advantageous is doubtful, but leaving this to the consideration

* Utchoury Imrit Lall mokhtear.
Lalla Gujrag Singh ditto.
Utchoury Injoy Lall ditto.

of the higher court, it is my duty to recommend that a sentence of death be passed on the prisoner. **1855.**

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Although the woman had no reason to suppose that her conduct, after such a lapse of time, could prove offensive to her husband, yet it is obvious, from the circumstances detailed in the remarks of the deputy commissioner, that the husband had brooded over what he considered his wrongs, until his anger led him to commit the crime with which he is charged. However unintentional, therefore, on the part of the wife, the provocation must, in reality, have been great, and the fact of his wife living with another man in the same village, must have led him to take her life in a fit of momentary anger. It is, moreover, very probable that his mental faculties were weakened by the bodily desease under which he suffered. Taking then the whole circumstances of the case, as above detailed, into consideration, we feel no good could be effected by sentencing a criminal, such as the prisoner, to a capital sentence, and, therefore, though convicting him of the wilful murder of the deceased, sentence him to imprisonment for life.

October 2.
Case of SIMBHOO.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

MOHUN JOLAHA.

Shahabad.

1855.

October 6.

Case of MOHUN JOLAHA.

CRIME CHARGED.—Perjury in having wilfully made on solemn declaration the following statements, at variance one with another, on a point material to the issue of the case in which he was a witness namely in his deposition before the deputy magistrate of Sasceram, on the 11th May, 1855, that on reaching the dwelling of Luteef, defendant, he found his (the witness's) daughter Jugga lying wounded in the *angun* and she related to him the particulars of her having been wounded, and in his deposition, of the 21st July, 1855, in the sessions court that he was present in the *angun* and saw Lutteef wounded his wife, the witness's daughter, Jugga, with a sword.

Attention drawn to Section v, Regulation XVII. 1817.

Committing Officer.—Mr. J. T. Worsley, deputy magistrate of Saseeram.

Tried before Mr. R. J. Loughman, officiating sessions judge of Shahabad on the 7th August, 1855.

Remarks by the officiating sessions judge.—The prisoner was giving his evidence on the trial of his son-in-law, charged with

1855. October 2. Case of MOHUN JOLAHA.

maining and wounding, with intent to murder the witness's daughter. This statement on this occasion was at variance with what he had stated on solemn affirmation instead of on oath in the magistrate's court, inasmuch as he deposed to being on the spot and witnessing the attack of the accused upon his daughter and his wounding her, whereas before the magistrate he had deposed that he was not on the spot during the perpetration of the crime, but reached it immediately afterwards and heard the particulars of it from his daughter.

There is clearly a contradiction here and on a point material to the issue of the case, as the evidence of an eye-witness is so much more conclusive than that of one who merely heard the particulars although from the party injured.

The prisoner, however, did not adhere obstinately to, but admitted the falsehood of his statement made in the sessions court as soon as he was reminded, on the course of the cross-examination, of the contradiction which he had uttered. He then, as now, pleaded the distracted state of his mind. He now adds, in his defence, that he was laboring under fever, but of this there is no evidence, as he has called no witnesses.

However unwilling to visit the heavy penalties of perjury on the fault of a father giving evidence respecting an attempt to murder his child, which ended indeed in her cruel mutilation by the severance of her hand at the wrist, I felt bound to bring him to trial.

The *futwa* declares the evidence of the father, in a case in which the wounding of his daughter was in question, to have been inadmissible according to the Mahomedan law and therefore acquits the prisoner.

Such a principle cannot, I presume, be suffered to prevail in trials in our courts, I therefore differ from the finding and consider the prisoner guilty. Under all the circumstances of the case, however, I am of opinion that a mitigated sentence of imprisonment for six months would amply meet the exigencies of justice in respect both to example and correction; and I therefore recommend such a sentence to be passed on the prisoner.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The case is clearly proved against the prisoner; and for the reasons stated by the sessions judge, we sentence him to imprisonment for six months with labor, without irons.

With reference to the *futwa* of the law officer, we observe that by Section 5, Regulation XVII. of 1817, the sessions judge should have asked him what his *futwa* should have been, had he considered the evidence of the prisoner admissible.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

GOOROOCHURN SURNOKAR.

24-Pergunnahs.

1855.

October 6.

Case of GOOROO CHURN SURNOKAR.

The prisoner was convicted of coining counterfeit coin.

CRIME CHARGED.—1st count, coining and forging counterfeit gold mohurs; 2nd count, privity to the said coining; 3rd count, having in possession counterfeit gold mohurs, knowing that they had been forged; 4th count, having in his possession implements of coining knowing them to be such, with intent to counterfeit and forge current coin to wit gold mohurs.

Committing Officer.—Mr. H. D. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of the 24-Pergunnahs, on the 27th July, 1855.

Remarks by the additional sessions judge.—The prisoner and the witness No. 11, Ramcoomar Dey, were some time since near neighbours and in the habit of aiding each other in the business of goldsmiths. Witness No. 11, went to his house in Burdwan, and after a residence there of one month, he returned when the prisoner met him and communicated to him a patent plan he had discovered of making a fortune quickly, and invited the witness to join him in the speculation. The witness declined, but the prisoner notwithstanding, communicated to him his discovery, which was nothing less than the coining of counterfeit gold mohurs, and asked him if he would engage to dispose of some for him. The witness asked to see a specimen of the coins, and the prisoner gave him two of them. These the witness showed to Ishore Das, professional spy, and he advised witness No. 11, to have nothing to do with the business, but to acquaint the police with what the prisoner had proposed to him. This being done, a trap was laid for the prisoner, witness No. 11 told him to make him 100 counterfeit gold mohurs, in a few days they were coined, and just as they were about to be made over to witness No. 11, the police were called in, and they apprehended the prisoner. His house was immediately searched when 58 brass coins, with a couple of dies and all manner of implements for making coins, were found in his house.

He denied before the darogah that the coins and tools belonged to him and charged the parties who had been instrumetal in arresting him, with having clandestinely put them in his house.

Before the magistrate he varied his defence, and stated that

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Case of GOOROO CHURN SURNOKAR.

Khethernath, his wife's brother's son, who lived with him, made the coins, and that he remonstrated with him, but to no effect.

Witnesses Nos. 12, 13 *and* 14.—It has been proved on the trial that the prisoner was in the habit of working with closed doors.

Witness No. 11.—It has been proved that he offered to supply any number of counterfeit coins.

Witness No. 1.—It has been proved that the prisoner was seen in the actual preparation of the counterfeit coins.

Witnesses Nos. 6, 7, 8 *and* 9.—It has been proved that the number of counterfeit coin and implements for their manufacture were found in the house occupied by the prisoner.

Witnesses Nos. 2 *and* 5.—It has been proved that the prisoner was at his house at the time of his arrest, and when the illicit property was discovered in his house, and it is out of the question to suppose that any one could have secreted them there, merely to get up a case against the prisoner.

Witnesses Nos. 4 *and* 5.—Lastly it has been proved that the prisoner acknowledged that his relative made the coins in his house, with his knowledge.

His defence at the sessions is the same as that he made to the darogah. He cites witnesses, but is unable to say what he expects to establish by their evidence.

Being examined, his witnesses say nothing, which, in any way, helps to exculpate him.

The law officer finds the prisoner guilty of privity to coining and forging counterfeit gold mohurs, and of having in his possession implements of coining, knowing them to be such.

The finding is in accordance with the 2nd and 4th counts of the charge, I agree in the *futwa* that these charges are proved; but the prisoner is also charged with the actual coining, and having in his possession counterfeit gold mohurs knowing that they had been forged. The proof is sufficient, in my opinion, to convict the prisoner of the charge of having himself coined the gold mohurs. The incidents which preceded his arrest, the evidence that he was seen employed in making the counterfeit coin, the discovery of several such coins in his possession, together with the implements for their manufacture, and the admission the prisoner made that he was cognizant of the manufacture, constitute a chain of evidence presumptively strong to bring home the charge that the coins were made by the prisoner.

I would therefore convict him, in opposition to the *futwa*, of coining and forging counterfeit gold mohurs, and sentence him to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The evidence in the case, together

with the admissions of the prisoner in his confession before the magistrate, establishes his guilt on violent presumption. We, therefore, concur with the sessions judge in convicting him of coining and forging counterfeit gold mohurs and sentence him, as proposed, to seven years' imprisonment with labor and irons.

1855.

October 6.

Case of GOOROO CHURN SURNOKAR.

PRESENT:

SIR R. BARLOW, BART., *Judge.*

RAMCHUNDER SHEAL

versus

BEENA GAZY (No. 1,) POCHA GAZY (No. 2,) AND ASSANOOLLAH (No. 3.)

Tipperah.

1855.

October 8.

Case of BEENA GAZY, and others.

The prisoners were convicted of burglary with wounding and sentenced by the sessions judge to five years' imprisonment. Appeal rejected.

CRIME CHARGED.—Burglariously entering the prosecutor's house with intent to rob and severely wounding his grandmother.

CRIME ESTABLISHED.—Same as crime charged.

Committing Officer.—Moulvee Golam Yahiah, law officer with full powers of a magistrate at Tipperah.

Tried before Mr. E. Radcliffe, officiating sessions judge of Tipperah, on the 15th June, 1855.

Remarks by the officiating sessions judge.—This was a case of burglary, under very aggravating circumstances, and tried by a jury of two pleaders, the law officer with full powers of a magistrate having made the commitment.

The prosecutor deposed that he, his wife and son were sleeping inside his house whilst his grandmother, Musst. Monoshee, was sleeping in the verandah, when at midnight of the 17th April last he was awoke by the noise of thieves drawing off his son's silver bracelets, when having gone out, he saw some men talking together; that his grandmother also came when prisoner No. 2, struck her a severe blow on the forehead, and extinguished the light she held in her hand; that he arrested Beina Gazy prisoner No. 1, when Pocha Gazy and Assanoollah, prisoners Nos. 2, and 3, rescued him; that on examination he found an entry had been made by a hole cut in the *mat* wall on the west side of his house; that the knife now produced in court was found at the hole, and that cash to the extent of Rs. 80 and his son's bracelets had been plundered. All three prisoners plead *not guilty.*

Witness No. 8, Musst. Monoshee, on hearing prosecutor's cries came with a light to see what was the matter, she was immedi-

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ately felled by a blow and rendered senseless, heard subsequently of the burglary but identified none of the robbers.

Witness No. 9, Ramkanth Dhooby saw the prosecutor and Beena Gazy, prisoner No. 1, struggling on the ground, and Pocha Gazy and Assanoollah, prisoners Nos. 2 and 3, rescue him; stated that Assanoollah, prisoner No. 3, hit him a blow on the head; that he identified all the prisoners living as they did within two miles of his house, and seeing them by the torch brought by Ramkanth Sheal, witness No. 10.

Witness No. 10, Ramkanth Sheal, having heard a noise, came out of his house, in which a burglary had also that night been committed; saw his mother Musst. Monoshee, witness No. 8, beaten and Beena Gazy, prisoner No. 1, arrested and forcibly released by Pocha Gazy and Assanoollah, prisoners Nos. 2 and 3. This witness as well as Musst. Monoshee and Ramkanth Dhooby, witnesses Nos. 8 and 9, had noticed the hole cut in the *mat* wall of prosecutor's premises.

Witnesses, No. 13, Musst. Munsurry, No. 14, Assanoollah and No. 15, Tun Gazy, state the three prisoners were suspected of the burglary in consequence of absence from home on the night in question.

Witnesses, No 16, Musst. Situnee, and No. 17, Musst. Togamattree, the wives of Beena Gazy, prisoner No. 1, depose to having seen their husband in company with the other prisoners, on the night of the 17th April, and returning home the next morning in an exhausted state.

Witness No. 18, Tun Gazy, son of Pocha Gazy, prisoner No. 2, declares he overheard his father's conversation with the other prisoners regarding the perpetration of this robbery, that they belong to a gang of robbers.

Prisoners, No 1, Beena Gazy, No. 2, Pocha Gazy, both these men confessed at the thannah, but being taken on oath, and consequently illegally, these admissions cannot be used against them. The conduct of the mohurrir who thus took their deposition being under investigation by the magistrate, no further remarks from me are necessary. Beena Gazy, prisoner No. 1, however confessed before the magistrate and his confession is proved to have been voluntary; that on a Tuesday in Bysack about 6 P. M., Pocha Gazy, prisoner No. 2, (afterwards said) Heera, Dhun and Dhura Gazees asked him to accompany them to Heera's house; that on going there at 10 P. M., the above, together with Assanoollah, prisoner No. 3, took him to prosecutor's house, where, whilst he and Pocha Gazy, prisoner No. 2, remained outside, Dhun Gazy cut a hole on the north side through which he (Dhun Gazy) entered; that prosecutor arrested him (Beena Gazy) when prisoner No. 2, released him; cannot say which of Pocha Gazy's men struck the prosecutor's party.

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Prisoner No. 1, Beena Gazy, declares his foujdary confession to have been his spontaneous act, but that his admission in the mofussil was extorted from him by maltreatment, but neither this circumstance nor his innocence are supported by proof. The other two prisoners deny all knowledge of the affair alleging that the accusation proceeds from the enmity of the two-anna shareholders of Mehar, but produce no proof.

The civil assistant surgeon deposes to the wound on the forehead of Musst. Monoshee being three inches long and of a very serious nature, and likely to have proved fatal to a woman of her very advanced years.

The jury unanimously convict the three prisoners of the crime charged, and although there is no eye-witness to the fact, still the confession of Beena Gazy, prisoner No. 1, the strong circumstantial evidence of the witnesses above cited, the severity of the injuries inflicted, and the inability of the prisoners to offer any satisfactory defence, induce me to concur fully in the verdict, and accordingly each prisoner has been sentenced to five years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner No. 1 was seized on the spot by the prosecutor, who with others was securing him, when the other prisoners Nos. 2 and 3, opposed his apprehension, and eventually after wounding two persons, one of them severely, effected his rescue. The prosecutor's uncle on hearing his cries, came to his assistance with a lighted torch in his hand; by this means and in consequence of knowing them previously, the prisoners were recognized and No. 1, being seized, confessed before the police and the magistrate, and stated he was released by his associates.

The prisoners have appealed, but cite no witnesses, they merely deny the charge. The sessions judge's sentence is confirmed.

PRESENT:
SIR R BARLOW, BART., *Judge.*

TRIAL NO. 2.
SHEOCHURN GOALA
versus
CHUTTOO CHOWKEEDAR (No. 2,) AND KHUGPUT (No. 3.)

TRIAL NO. 3.
GOPAUL GUNREYREE
versus
CHUTTOO CHOWKEEDAR (No. 4,) AND KHUGPUT (No. 5)

Patna.

1855.

October 8.

Case of CHUTTOO CHOWKEEDAR and another.

The prisoners were convicted in two cases of burglary and sentenced by the sessions judge to seven and five years' imprisonment respectively

Appeal rejected.

CRIME CHARGED.—*Trial No.* 2—Burglary with theft of property valued at Rs 2-12 *Trial No.* 3.—Burglary with theft of property valued at Rs 2-1-9

CRIME ESTABLISHED —*Trial No.* 2.—Same as crime charged. *Trial No* 3 Same as crime charged.

Committing Officer.—Mr. F. A Vincent, magistrate of Barh.

Tried before Mr G. D Wilkins, officiating sessions judge of Patna, on the 31st July, 1855

Remarks by the officiating sessions judge.—Trial No. 2.—Prosecutor was asleep at home in the village of Daree, when a slight noise disturbed him, and he found his house had been broken into and robbed. He rushed out and seeing the thieves running away called out loudly to his neighbours to come to his assistance and follow them. The three witnesses, Nuthoo, Bhagoo and Mithoo (besides one Gopaul a prosecutor on a second charge) did so, when they overtook the two prisoners laden with stolen property, arrested and kept them bound during the night, reporting the apprehension at once to the police chokee at "Uthmulgola" half a mile off.

The prisoners, one of whom was a stranger, and the other the *chowkeedar of the village*, refused to say who were their accomplices, three of whom were seen to get away in another direction, and were found to have on them property besides prosecutor's (which has been fully identified) which afterwards was discovered to have been burglariously stolen from another house very near prosecutor's, viz. Gopaul's. On Gopaul's prosecution the prisoners have been subjected to a second like charge, and the cumulative sentence to be passed on them will be given in that case. The prisoner Chuttoo says the prosecutor and his

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witnesses owe him a grudge on account of his demanding from them some balance of chowkeedary salary, but his witnesses, three in number, say nothing in support of this story, and he besides does not deny he was apprehended at the time of the theft, while, as he says, attempting to seize his brother prisoner. It is notorious that these village burglaries never occur without the connivance of the village chowkeedar. The other prisoner who lives in another district, in no way accounts for his presence on the night in question in the village of Daree, in a cotton field, where he was seized with stolen property upon him, calls no witnesses, and is, without a doubt, a professional thief. The law officer concurs in the conviction of both prisoners on the crime charged against them.

Trial No. 3.—These are the same prisoners and witnesses to their apprehension with property burglariously stolen found upon them, as in calendar No. 2. The prosecutor in this case rushed out of his house to assist the prosecutor Sheochurn and the three witnesses he (Sheochurn) had summoned to aid him in following the thieves seen to run away from Sheochurn's house, and on taking from the said thieves the things found on them, suspected some of them which were not Seochurn's might be his. On returning home he found it was so, and that *his* house too had been broken into and robbed, prosecutor's property found on the prisoners has been also identified, and the prisoners make one defence in both cases.

In concurrence with the law officer I convict the two prisoners of the two distinct burglaries detailed in the calendars, and sentence Chuttoo (he being at the time in Government employ as a watchman) to seven years with labor and irons. The other prisoner Khugput will be imprisoned for four years, and one year more in lieu of corporal punishment, total five years, with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoners were seized on the spot, property was found on them belonging to the two prosecutors, whose houses had been burglariously entered. The witnesses examined in both cases fully establish the guilt of the prisoners, whose appeal is rejected.

PRESENT:

A. DICK, Esq., *Judge*.

SIR R. BARLOW, Bart., and J. H. PATTON, Esq., *Judges*.

GOVERNMENT and MUSST. KOMUL BEWA

versus

LUKHEENARAIN DAS BYRAGEE (No. 1,) and RAMDHONE MUNDUL (No. 2.)

24-Pergunnahs.

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Case of Lukheenarian Das Byragee and another

The two prisoners were convicted of the wilful murder of the deceased, a prostitute, whom they had inveigled to their house under pretence of introducing her to a rich Baboo, and were sentenced capitally.

Another prisoner who had been previously convicted for this crime and sentenced to imprisonment for life, appeared as a witness in the present trial.

CRIME CHARGED.—1st count, wilful murder of Musst. Shurbomungola, daughter of the prosecutrix; 2nd count, robbery of gold and silver ornaments valued at Rs 125-8, the property of Musst Shurbomungola, attended with the murder of the said Musst. Shurbomungola; 3rd count, accessary both before and after the fact of murder attended with robbery; 4th count, privity to murder attended with robbery, and 5th count, prisoner No. 2, receiving property obtained by robbery attended with murder, knowing that it had been so obtained

Committing Officer.—Mr H. D H. Fergusson, magistrate of the 24-Pergunnahs

Tried before Mr C Steer, additional sessions judge of the 24-Pergunnahs, on the 20th July, 1855

Remarks by the additional sessions judge.—This cruel cold-blooded murder, for which the two prisoners are now upon their, trial, has already been the subject of one sessions trial.

Kallachand Das Byragee was tried and found guilty of being an accessary before and after the fact of the murder, and sentenced to transportation for life, vide Nizamut Adawlut Reports for April, 1855, pages 378, 379, 380 and 381.

The facts indubitably established by the evidence given on the former and in the present trial are, that the prisoner Lukheenarain, with either Kallachand or Ramdhono (and it is doubtful which) went on the 23rd December, 1854, to the house where Shurbomungola lived, and got that girl to accompany them, as she supposed, to the house of a rich Baboo, who, it was said, would keep her. She was attired in all her finery, and had ornaments on her to the value of 125 Rs, Lukeenarain and his companion, whoever it might be, conveyed her to his house where Lukheenarain, Kallachand and Ramdhone, after intoxicating her, cut her throat, took her jewels, and buried her in a hole made in the house. The next night subsequent, the same three merciless villains removed the body, strip it of clothing and drawing the legs by a string up to the neck, they put the body in a sack and threw it under a bridge on the highway. The body was found six days after and the mother recognized it.

Lukheenarain took to flight. On his apprehension lately, he

admitted being present at the murder, and pointed out his fellow prisoner Ramdhone, who was also concerned in it. This latter person also admitted that he was in the very house, when the girl was murdered and that a nose-ring found in his house belonged to her.

Kallachand, who was convicted on circumstantial evidence, has been now examined as witness to strengthen the case against the accused. Further than in the description given as to how the murder took place, I do not however attach much credit to his testimony. By his account as well as from what Lukheenarain and Ramdhone both admit, it will be seen, however, that Ramdhone and not Kallachand went with Lukheenarain to fetch the girl. The discrepancy is of no great importance, for whether Kallachand went for the girl or Ramdhone, it is certain that when the girl was brought to the house in which Lukheenarain and Kallachand lived, she was cruelly murdered in the presence of all three persons.

Rejecting then the evidence of Kallachand that Lukheenarain cut the throat and Ramdhone held her hands, while Kallachand looked on, there is nothing else to show what part each prisoner took in the murder. The likelihood is that they all took a direct and active part in it, the presumption is unavoidable that they were all there by design, and it is perfectly certain that all three were actually present when the horrible deed was going on. Lukheenarain, who fled as soon as the murder came to light, admitted to the police and to the magistrate that he saw the murder committed, and what is a most remarkable feature in the case is Ramdhone, who was not even known by name to Lukheenarain and to Kallachand, admitted that he too was present at the murder, that he went with Lukheenarain to fetch the girl, that he received but afterwards returned a part of the property taken from the deceased at the time of the murder, and he further admitted that a gold nose-ring, ornamented with two pearls and an emerald was part of the jewels belonging to the deceased. The same has been identified by the mother of the murdered girl, as well as by other persons, as the very nose-ring the deceased had on when she left her house for the last time in company with Lukheenarain.

Luckheenarain, who at first pleaded *not guilty*, was much inclined when he was asked for his defence to make a confession. He began his defence with saying that his confession before the magistrate was in most part correct, but it was not so altogether. I had his confession read to him, but there was so much in it which he either wholly disallowed or partially admitted, that I thought it best to have the prisoner's statement taken down fresh from his own dictation. He then suddenly changed his mind, and denied that he knew any thing whatever of the murder. He named witnesses to prove that subsequent to the

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murder he had been to Serjeant Boyd and had spoken to him concerning that matter.

Ramdhone denied, averred that he made no confession whatever, that he knows not to whom the nose-ring belongs or whether it was found in his house.

The latter prisoner named no witnesses, and those who appeared for Lukheenarain admitted that he had been to Serjeant Boyd, but that he was not at home and the prisoner did not see him.

The law officer finds Luckheenarain guilty of the murder and Ramdhone guilty of being an accomplice in the same.

There is every reason to suppose that Luckheenarain planned this murder, not for the sake of the jewels deceased possessed, but to make money by giving information against the men whom he had duped, with the commission of the crime. It is certain that Luckheenarain went shortly after the murder to look for Serjeant Boyd, and I am much inclined, from a part of Kallachand's statement, to think that he did this *before* the body was removed out of Kallachand's house, and that his object was to betray Kallachand to the police. But Serjeant Boyd being out of the way, and Kallachand hearing that Lukheenarain had been to him, suspected what Luckheenarain was at, and insisted on the removal of the body. What prevented Luckheenarain from executing what I conceive to have been his original purpose it is impossible to say, but from his giving *the whole of the jewels* to his two companions, from his attempt to find out and communicate with Serjeant Boyd at a time when it is natural to expect that he would studiously avoid the police, and from his vile character, I have little doubt, in my own mind, that had it not been for some lucky accident we should have seen Luckheenarain in the witness box, instead of the Dock, from which I hope he will be sent where he will find no further scope for the practice of his infamous trade.

It is also another most remarkable circumstance that Luckheenarain and Kallachand were joined in the crime by one who was almost a stranger to them and who profited so little by the crime. But I cannot disbelieve Ramdhone's own confession, and the finding of the nose-ring in his house, together with his implication by both Kallachand and Luckheenarain, afford strong corroboration that he was personally concerned in the murder.

Firmly believing as I do that the two prisoners are guilty of being accomplices in the wilful murder laid to their charge, and that no murder could exhibit greater proof of premeditation than that of which the prisoners are guilty, I cannot consistently recommend a sentence of death. If we discard Kallachand's evidence, there is no other which in the least helps to show who the actual murderer was the guilt of the two prisoners ed of

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Kallachand is, as far as there is evidence to the contrary, equal; all were present at the murder, but who actually committed it, and what part each took in it, is altogether doubtful, neither of the two prisoners are, it is probable, more guilty than Kallachand and I cannot therefore recommend a higher sentence than what has been given against him, except that I would add transportation to the sentence.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. J. H. Patton)

Mr. A Dick.—Kallachand has now admitted that he was present at the murder, and that he assisted in holding the deceased, while Luckheenarain cut her throat.

Luckheenarain denies that he perpetrated the murder, or that he assisted at it, or that he brought the deceased from her house to that of Kallachand. He admits that he was sleeping in the house when the murder was perpetrated

Ramdhone admits that he with Luckheenarain brought the deceased from her house to that in which she was murdered, and that after eating and drinking, the deceased, Luckheenarain, Kallachand and he lay down, and fell asleep, and that on waking he saw Kallachand cutting her throat and Luckheenarain holding her feet. The statements of all three are utterly untrustworthy, as to the part they respectively took in the murder. I therefore concur (having already sentenced Kallachand to imprisonment for life as an accessary) with the sessions judge in convicting both prisoners as accomplices in murder, and would sentence them both to transportation for life as recommended.

Mr. J. H. Patton.—The admissions of the prisoners, coupled with those made by their associate in the crime, Kallachand Dass, (sentenced to perpetual imprisonment by the Court, on the 7th April 1855,) and repeated under solemn affirmation on the trial, and the finding of the body of the deceased woman in the manner and place indicated in the record of Kallachand's case, are conclusive as to the fact that a cruel and cold-blooded murder was committed, and that the prisoners, and Kallachand were the perpetrators. It matters little what part each individual took in the horrible deed, and what is the precise nature of their respective agency in it. That they compassed it singly and conjointly is beyond all question, and all are equally guilty in the eyes of the law, Kallachand's escape from a capital sentence in consequence of the absence of legal evidence to convict him as a principal in the murder, forms no argument for the extension of mercy to the prisoners, against whom the proof is complete. The prisoner Luckheenarain Byragee, is doubtless the more hardened criminal of the two and his previous course seems to have been marked with deeds of darkness and villainy, but I cannot, on that account, make a difference in the measure of punishment between him and his fellow-prisoner for a crime

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against which the law has prescribed a special penalty. The crime, of which the prisoners are guilty, is deliberate and wilful murder and the penalty is death, and to that doom I would consign them both.

Sir R. Barlow.—This case is referred upon a difference as to the extent of punishment to be awarded against two prisoners Luckheenarain Dass and Ramdhone Mundul, charged with wilful murder of Musst. Shurbomungola daughter of Kumul Bewa, the prosecutrix.

Another prisoner Kallachand Dass, was sentenced by Messrs. Dick and Patton, on the same charge to transportation for life in April last.

Mr. Dick proposes to pass a similar sentence on the prisoners now before the Court, Mr. Patton would sentence them both capitally.

On the 21st May last, the prisoner Luckheenarain, in the mofussil, denied the murder, he stated that Kallachand brought the deceased, Surbomungola, to his house; that they all had a drinking party with a man, name unknown, prisoner became senseless, but on awaking early in the morning, recovered from the effects of what he drank overnight, he found that Kallachand and the deceased had gone away, the stranger, however, was still present sleeping, prisoner again went to sleep and at day-light also left. Two days after this, prosecutrix came and asked for the daughter, prisoner went, he says, to the police sergeant at Ballygunge, suspecting that Kallachand had murdered the girl with the view to have him seized. But being afraid that prosecutrix would get up some story against him, he went off to Bhudrissar in the Hooghly district.

On the 1st June, before the magistrate of the 24-Pergunnahs, prisoner also denied the charge, adding that the deceased begged him to introduce her to some Baboo and repeated her request; about twenty-five days afterwards, Kallachand, who lived in his house at Bhowanpore, asked him to procure a woman for him. He took Kallachand to the house of deceased in Neemotollah Gullee in the Bow Bazar at Calcutta, three or four days prisoner went to Kallachand's and while he was there, Kallachand and a stranger brought the deceased there. They all began to eat and drink, prisoner was very much intoxicated he went to sleep and very early in the morning left the house, the stranger was there, but Kallachand and the girl had gone away. During the day he returned and asked for the girl and Kallachand said she had gone home. Two days after this, prosecutrix came to the house and asked for her daughter, prisoner would not see them, being alarmed, he went to another house and they left, prisoner asked Kallachand what had become of the girl, he was angry at this, doubts arose in the prisoner's mind, he went to the sarjeant at Ballygunge, who would not listen to him;

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hearing of Kallachand's apprehension and of the finding of the corpse and the girl's jewels he absconded, prisoner admits that he brought the deceased and Kallachand together and adds he can point out the residence of the stranger, describing him. On the 2nd June, being again examined, he indicates prisoner Ramdhone, as the stranger of whom he had been speaking, who brought the girl with Kallachand and he murdered her, not Ramdhone.

Ramdhone being seized on the 2nd of June, was taken before the magistrate and at once examined. He said that he did not kill the deceased, Luckheenarain is a friend of his, about six months ago, Luckhee came to him and coaxed him to go to his house, he went and saw there a woman and a tall man; at 11 P. M. this man brought some *shurab* and sweetmeats and *they* began to eat and drink; prisoner at their solicitation joined them, but was very little affected by it, they continued to drink and at length all of them went to sleep.

After a time prisoner heard a noise awakened and on opening his eyes he saw the oil lamp somewhat covered with a basket, a little light however was apparent and he saw Lukheenarain seize the feet of deceased and the tall man her head, the latter cut her throat with some instrument, 18 inches long, he then began to saw the neck, and she struggled, prisoner was afraid and pretended to be asleep, the others put out the light. He heard a whispering between them and then some further noise When day broke he went away and they forbad his saying any thing. The prisoner points out Kallachand as the tall person of whom he spoke.

On the 4th June prisoner was again examined, saying he had forgotten to mention something, Luckheenarain took him to the house of the deceased to bring her, she had her ornaments on, which were taken by Luckhee and Kallachand, after they had killed her, prisoner got two gold earrings, but was told not to speak of it; six days afterwards, Luckhee came and demanded them, and he gave them up to him.

On the 7th June, on further examination, he admitted that the goldring in court was given to him on the morning after the murder by Luckheenarain, as he was about to leave the house. The ring was produced from an earthen pot, wrapped up in a small piece of cloth, which was on a *machan* in his house.

Both prisoners pleaded *not guilty* in the sessions court.

The evidence in the case for the prosecution consists of the *deposition* of the convict, Kallachand, taken under Act XIX. of 1837, and those of the prosecutrix, pointing out Luckheenarain and *Kallachand* as the persons who took her daughter away, and recognising the corpse and the ornaments which the deceased wore, when she left home; others also have deposed to these facts.

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The *evidence* of the convict, Kallachand, must of course be used with the greatest caution. On comparing it with his *confession* I find that he has sworn to the *actual murder* of the deceased by the two prisoners Luckheenarain and Ramdhone. In his mofussil confession, he merely said that Luckhee and a stranger brought the girl to Bhowanipore and took her away at 9 P. M. He said he could recognise the stranger, whom he had before seen at the house. Luckhee returned *solus* and said he had left the girl at the Baboo's. On the second day after this, Luckhee gave him the ornaments to conceal.

Kallachand's confession before the magistrate is much to the same effect, he adds, however, that Luckhee and the stranger left the house at Bhowanipore at 3 P. M. to go to Calcutta and came back at six, and all three left the house at 9 o'clock P. M. The confessions, it will be seen, do not go to the extent of the *evidence* given before the magistrate on the 15th June, by Kallachand in which he not only gives the details of the murder but minutely describes the part he himself took, with the two prisoners now charged, in killing the deceased, and how they tied up the corpse and buried it in the house, where they slept that night and remained the next day, and on the night closing, they put the corpse into a bag, brought by Luckhee and the stranger and carried it off and placed under the bridge, where it was found. The witness adds that he had the ornaments round his waist and afterwards buried them, and points out the "*stranger*" *Ramdhone*, from amongst several persons, saying he had disguised himself and cut off all his hair, which he used to wear very long.

There is a remarkable circumstance connected with the prisoner *Ramdhone*, and his recognition by Kallachand, that when the latter was apprehended in December, 1854, he stated that he could point out the prisoner; Ramdhone was seized on the 2nd June, 1855, he was placed amongst a number of people, Kallachand was brought from the jail and at once recognised him as the stranger, who, in company with Luckheenarain, brought the deceased from Calcutta to Bhowanipore, while Ramdhone himself immediately he was brought before the magistrate said that he had accompanied Luckhee and the girl from her house to that of Kallachand and Luckhee at Bhowanipore. At this time, the parties had held no communication with each other. Ramdhone's confession confirms Kallachand's confessions and his evidence too, and that on a most important point. The bringing the girl away from Calcutta by Ramdhone is further admitted by Luckheenarain in his confession of the 2d June, in which he states Ramdhone and Kallachand, *both* accompanied him from the house of the prosecutrix to that at Bhowanipore.

1855. October 8. Case of Luckhee-narain Das Byragee and another.

Again, Kallachand's *evidence* is to a great extent corroborated by the confessions of the two prisoners, Luckhee and Ramdhone.

Both say the girl was brought to be introduced to some Baboo; that she was dressed out for the purpose; that they all met at Bhowanipore and had a feast; that the girl from that hour disappeared; that they were aware she had met her death by some violent means; that they received portions of the jewels she had worn; and that being afraid of the consequences, they absconded, while Ramdhone further confesses to having seen the murder committed and to having remained silent regarding it up to the time of his apprehension.

The abduction of the girl; the finding the corpse; its recognition; and the recognition and finding of the jewels, as well as the confessions, are all proved and verified by the witnesses, who have been examined at the trial.

After the fullest consideration, I cannot but concur with the sessions judge in convicting both the prisoners, Luckheenarain and Ramdhone, of aiding and abetting in the murder of the deceased Shurbomungola. The law officer draws a distinction between the guilt of Luckhee and Ramdhone. Their guilt, if the evidence on the record is to be credited, amounts to participation in the murder of the unfortunate girl, who was inveigled by them from her home, under other pretences. I can find no circumstances in the case which warrant a minor degree of punishment, I therefore concur in condemning them to death.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND BECHOO TEWARRY

versus

BULLIE BAOREE CHOWKEEDAR.

West Burdwan.

1855.

October 9.

Case of BULLIE BAOREE CHOWKEEDAR.

Appeal rejected, the prisoner's guilt being proved.

CRIME CHARGED.—1st count, that he, being a chowkeedar at the time, did on the 4th of July last or 21st of Assaur, 1262, B. S. steal cash and jewels from the prosecutor Bechoo Tewrary valued at Rs. 454-10-0; 2nd count, that he, being a chowkeedar at the time, did knowingly and wilfully receive and keep in his possession property acquired by the above act of theft.

CRIME ESTABLISHED.—2nd count, of being a chowkeedar at the time and knowingly and wilfully receiving and keeping in his possession property acquired by theft.

Committing Officer.—Mr. J. S. Spankie, joint-magistrate of Bancoorah.

Tried before Mr. P. Taylor, sessions judge of West Burdwan, on the 25th July, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case drawn up under Act XXXIII. of 1854, were as follows:—

"The prosecutor, who is a pilgrim, on his way to Juggernath with his family having arrived at the Dolkashur river, with his property laden on carts, found it somewhat high with the late rains, and therefore removed the various articles, among which was a box containing cash and jewels, from the carts, and made them up into bundles. The box aforesaid was in one of the bundles. When the operation had been completed a number of low caste men, who were by, among whom was one who had lost all the toes of one of his feet, came forward and took up the bundles, saying that they would carry them across. The prosecutor forbad them to do so on the ground that his party did not require assistance, but they would not listen and had indeed already entered the river. Seeing this, the prosecutor and his people, among whom were the witnesses Thakoor Chowbee and Bishen Aheer, Nos. 13 and 14, (with Shumtoo Aheer and the prosecutor's uncle, Sheebchurn Tewaree, Nos. 15 and 18, not examined by the sessions court) thought it useless to make further objection, and set about getting the women and children across. The men with the bundles, among whom the maimed individual had that containing the box on his head, of course reached the other side of the water first, and

1855. October 9. Case of BULLIE BAOREE CHOWKEEDAR.

thereupon, as the prosecutor declares, began making off in various directions, perceiving this, he and the other males of his party, hastened out of the stream and pursuing the runaways, succeeded in securing seven of them, but not the toeless man with the box, who got clear off. This portion of the story is somewhat apocryphal, as it was not probable that five men could have secured seven, if they, who had a good start, had actually fled in various directions. It is very probable that all did not fly, but the matter is of no consequence, as none of the persons seized have been committed by the joint-magistrate. The prosecutor and his party, having bound their captives, gave information to the town darogah, who came to the spot and was afterwards joined by his brother Oimdah. As the toeless man was said, by the bound individuals, to be one Doorgachurn Baoree of Tuppobona, the endeavours of the two darogahs were of course aimed at the apprehension of that individual. These have not yet been successful; but, on sending for Modi Baorin, witness No. 16, who is the wife of the fugitive, she stated that she had seen the prisoner, Bullie, give a packet, tied up in cloth, to his daughter Goyi, witness No. 17, who corroborated her story, but declared that the prisoner had again taken the packet from her and carried it off, she knew not whither. Upon this the prisoner was seized and produced 82 Rs. and 3 gold mohurs, tied up in a cloth, from the water of a certain tank. He subsequently confessed before the darogah and joint-magistrate and his defence before this court, though he pleaded *not guilty*, is tantamount to a confession of the crime charged in the 2d count, because although he again alleges that he found the money, after four or five thieves, described by him as up-country men, had run off from the spot in which they were trying to hide it, and that he had all along intended to give it up to the darogah; the fact that he did not so give it up, till told upon by Modi and Goyi; that he hid it in the tank, and that he is connected with the fugutive Doorgachurn, though the former of the said females, distinctly criminate him. Though he named four witnesses to his defence, he would only have two, viz. Purikhit Pator No. 19, and Kallee Biswas No. 21, examined, neither of whom can say any thing the least exculpatory of him, though both affirm that he has never been in any disreputable scrape before. The evidence of the witnesses to the *sooruthal*, and to the finding of the property, is clear and sufficient.

The *futwa* of the law officer convicts the prisoner of the offence charged in the 2nd count, on full legal proof and declares him liable to *tazeer*. The court entirely concurs in this finding, and convicting the prisoner of knowingly and wilfully receiving, and keeping in his possession, property of the value of

1855. October 9. Case of BULLIE BAOREE CHOWKEE-DAR.

Rs. 143-2-0, acquired by theft from the prosecutor, though he was a chowkeedar at the time, sentences him to six years' imprisonment with labor in irons, in the zillah jail, from the present date; four years with labor in irons are inflicted for the offence, and two years with ditto ditto, because he was a chowkeedar when he committed it. The usual warrant of imprisonment will be forthwith transmitted to the joint-magistrate, who will be directed to restore the rupees and gold mohurs recovered, and also certain pieces of the box in which they were found on the bank of the tank, to the prosecutor, and to confiscate the cloth in which the prisoner wrapped up the monies.

The record will be returned as soon as the period of appeal shall have expired.

The statements of some of the witnesses in this case disclose the fact, that certain other valuables, consisting of necklaces, rings, &c., which formed a portion of the contents of the prosecutor's box, were pointed out in a tank and *aous dhan khet*, by two boys named Juggernath and Gopeenath, and a separate order, in the joint-magistrate's own hand writing, explains they were not committed for want of sufficient evidence against them.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) We see no reason to interfere with this conviction. The facts stated by the sessions judge are fully established by the evidence. We reject the appeal.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GUNGABISHUN RAJPOOT AND GOVERNMENT

versus

TEETUN SINGH RAJPOOT (No. 1,) AND BUKHOREE SINGH RAJPOOT (No. 2.)

Behar.

1855.

October 9.

Case of TEETUN SINGH and another.

One prisoner was convicted as principal, and the other prisoner was convicted as an accomplice, in the culpable homicide of a girl, who was killed by a blow aimed at her father by the former prisoner.

The Court ruled that the prisoner must be held responsible for the full effect of the blow without reference to the physical strength of the person on whom it fell.

CRIME CHARGED.—1st count, No. 1, culpable homicide of Jeeta, a girl, deceased; 2d count, No. 2, being an accomplice in the homicide of the said girl.

CRIME ESTABLISHED.—Same as crime charged.

Committing Officer —Mr. F. C. Fowle, magistrate of Behar.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 11th May, 1855.

Remarks by the sessions judge.—Prosecutor and prisoners are residents of the same village of which Bukhoree Singh holds a sub-lease, whilst the prosecutor is at present simply a cultivator, though formerly, according to the prisoners, he held a joint-lease of it with them.

Witnesses
No. 1, Nunger Singh Rajpoot.
,, 2, Sumbhul Singh ditto.
,, 3, Dossein Dosadh.
,, 4, Hurdyal Singh Rajpoot.
,, 5, Bishoore Singh ditto.

The prosecution shows that on 26th March last, the prosecutor was gathering in his gram crops, some distance outside the village, the deceased, his grand-daughter, a little girl of about 7 to 8 years of age, being with him as usual during the afternoon. Bukhoree Singh prisoner (No. 2,) the lessee, apparently a quarrellous elderly man, came to the field and seeing the little girl eating some of the gram, charged the prosecutor with making use of her to pilfer his property. Abuse was exchanged which brought up Bukhoree's son Teetun Singh (prisoner No. 1,) and his nephew Ramnath (absconded) when on Bukhoree's order, Ramnath seized the prosecutor by the waist whilst Teetun struck at him with a stick, the prosecutor struggled and threw his head back when the blow alighted on the little girl's head, who had come close to her grandfather at the commencement of the altercation, and killed her on the spot, Ramnath then let go his hold of the prosecutor, and Teetun endeavouring to strike him again, the prosecutor snatched the stick (a light one weighing less than 2 lbs) out of his hands. Prosecutor, prisoner Teetun and Dossein Dosadh witness (No. 3,) accompanied by the corpse and the stick, all appeared at the thannah eight miles off at 10 o'clock the same night.

1855.

October 9.

Case of TEKTUN SINGH and another.

The inquest and *post mortem* show "the skull was fractured, pressing on the bone of the brain which was the only mark of violence on the deceased's person whilst the body presented that of a healthy child."

Witnesses
No. 6, Hunnooman Buneea.
,, 7, Choolun Abear
*,, 8, Chummun Lall Ugurwalla.
,, 9, Dr. J. B. Allen.

Teetun Singh's first defence that the prosecutor had poisoned the deceased, then Bukhoree Singh's following the next day, acknowledging altercation with the prosecutor about pilfering, declared the conjecture that the prosecutor must have killed the deceased though he could not prove it. Again before the magistrate, first that the deceased had died of fever, and at last equivocally that the prosecutor had himself killed her to get them into trouble, out of spite for their holding the sub-lease and to which effect, and to their having been otherwise engaged at the time of the occurrence, they called a host of witnesses. The same kind of defence was repeated before this court, and the counter-charge of murder against the prosecutor was supported by the same witnesses noted within. In addition Bukhoree Singh also pleaded that he was blind, and incapable of acting the part he stands accused of. Though he endeavoured to keep up the pretence, I observed him at times unawares quite alive to what was passing in court. Having also caused Dr. Allen to examine him he found him "suffering from cataract in the left eye and therefore has little or no sight with it, but the right eye is quite sound and sensible." He also pretended the deceased was only 3 years of age, but Dr. Allen's testimony corroborates that of the prosecution as to her having been 7 to 8 years of age.

Witnesses
No. 10, Meijhun Dosadh.
,, 14, Broja Kuhar.
,, 15, Tenoukul Rawoot.
,, 16 Choollan Jollaha.
,, 17, Surubnarain Singh.
,, 27, Koonwar Gwalla.
,, 30, Suhye Bobhun.
,, 33, Sobun Lall Kaeth.
,, 44, Nanhoo Singh Bobhun.

The jury* unanimously return a verdict of guilty on the counts charged.

I consider the cross-examination satisfactorily proves the prosecution as observed by the magistrate, "a simple narration of facts and a probable story," whilst it is at the same time supported by the prisoner's wild, inconsistent, contradictory and incredible defences. Dr. Allen found the deceased healthy child so that death by poisoning or sickness, independent of the blow on the head, was impossible; whilst the latter also disproves the hearsay tale for the defence

* Sheoodyal Singh of Dureehut, Shahabad.
Byjnath Subye of Futtehpore, Behar.
Mullick Mahomed Masoom of Eyrkie, Behar.
Khadim Hossein of Muheooddinpoor, Behar.

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of the prosecutor having killed her by throwing her on the ground, which, if the case, would have left very different marks on his person. Further, they are manifestly tutored witnesses, utterly unable to give any explanation whatever of circumstances which would naturally have accompanied what they pretended to hear or see, had there been a word of truth in their statements. So simply an occurrence has been doubtless aggravated by ill-blood between the parties, though there is no reason to suppose that any thing beyond the prosecutor's personal chastisement was intended for his altercation with the elder, and the man of local power at the time, viz. Bukhoree Singh though thus miserably ending in culpable homicide. Section 4, Regulation VIII, 1801, by misadventnre.

Concurrring in the verdict, therefore, I have sentenced the prisoners as below, Bukhoree Singh, though the principal offender as encouraging the youngmen, consequent on his bodily infirmities.

Sentence passed by the lower court.—No. 1, to five years' imprisonment with labor and irons and No. 2, for five years' without labor or irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoners before us were defended by Anundopershad vakeel, who admitted the material facts, recorded by the sessions judge in his remarks in the case, but pleaded that as the deceased was a child of tender years and *consequently less* able to bear the effects of a blow than a man, the fact of her death was no proof that the blow was at all likely to have killed the person at whom it was aimed. The prisoner Teetun, should only be responsible for such effect as was likely to have ensued from the blow, had it struck the person for whom it was intended. The pleader also urges for the prisoner Bukhoree Singh, that he cannot be held responsible for the fatal effects of the assault, as his anger was directed against the deceased's grandfather and he had no reason to believe that any injury whatever would ensue to the deceased. On the effects of these pleas, we have consulted the authorities "Roscoe on Criminal Evidence" and "Russell on Crime," and consider the principle to be followed in the present case is, that the assault being unjustifiable, the prisoner, Teetun Singh, must be held responsible for the full effect of the blow, without reference to the physical strength of the person on whom that blow fell, the age and weakness of the child therefore does not alter the nature of the offence and the prisoner, Teetun, has been rightly convicted of culpable homicide. With regard to the prisoner, Bukhoree Singh, as it is proved that he was aiding and abetting Teetun Singh, and directed him to assault the prosecutor, and as the homicide of the child, Jetea, was under the circumstances the ordinary consequence of that assault, he has been justly

1855 October 9. Case of TEETUN SINGH. and another.

held responsible as an accomplice in the homicide. Taking into consideration, however, the evident absence of any intention on the part of the prisoners to kill the deceased, we think a sentence of twelve months' imprisonment, from the date of the sessions judge's order, sufficient, labor commutable in the case of Teetun, sentenced to labor also, to fine of 20 Rupees payable in fifteen days.

PRESENT:

SIR R BARLOW, BART., *Judge.*

GOVERNMENT

versus

MUDHOO CHUNG.

Hooghly. 1855. October 11. Case of MUDHOO CHUNG.

Prisoner, convicted on his own confession of having belonged to a gang of dacoits, sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer -Mr J. R. Ward, commissioner for the suppression of dacoity at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 11th September, 1855.

Remarks by the additional sessions judge.—The commissioner's remarks, which I subjoin, contain all that is necessary to be known in this case.

"Prisoner was arrested as he was well known to me, when magistrate of Howrah, as a Sirdar dacoit. He has confessed to having taken a part in twenty-four dacoities, the whole of which have been found to have occurred. Two only had been concealed (Nos. 13 and 17,) but enquiry made, after Mudhoo's confession, shewed they were committed as stated by him. The prisoner's confession is a remarkably correct one, not only have I been unable to discover any thing which in any way could throw doubt, but he is borne out in an extraordinary manner in all the details he had given by the records* which accompany, pri-

* Memo. of record returned to the dacoity commissioner connected with the case of Mudoosoodun Chung.

No. 86. A *nuthee* in the case of dacoity in the house of Gorachand Hajrah of Ansolea, thannah Amtah.

No. 67. A *nuthee* in the case of dacoity in the house of Okoor Koloo of Kolicata, thannah Amtah.

No. 162. A *nuthee* in the case of dacoity in the house of Bydonath Dey, of Shomeshur, thannah Amtah.

No. 14. A *nuthee* in the case of dacoity in the house of Ramcoomar Soone, of Kharajeemajoo, thannah Amtah.

No. 254. A *nuthee* in the case of dacoity in the house of Kantick Koloo of Ruttonpotah, thannah Amtah.

soner himself is a more intelligent man than the generality of his class." 1855.

"He holds to his confession and has nothing to say in defence, I therefore commit him on his own confession, which the witnesses will prove to have been voluntarily made, to take his trial before the sessions court this 20th day of August 1855." October 11. Case of MUDHOO CHUNG.

The confession is proved by the testimony of the two witnesses before whom it was given.

The prisoner pleads guilty to the charge before me, he acknowledges that he committed the dacoities specified in his confession given to the commissioner of dacoity, and he declines to say any thing in his own defence.

I would convict the prisoner on his own proved voluntary confession of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Sir R Barlow, Bart.) Under the circumstances detailed, the Court confirm the sessions judge's proposition, and sentence the prisoner to transportation for life.

No 172. A *nuthee* in the case of attempt at theft in the house of Muddon Doss Kybrut of Goja, thannah Rajbulhat.

No. 276 A *nuthee* in the case of theft in the house of Gudadhur Doss Byragee of Goja, thannah Rajbulhat.

No. 84. A *nuthee* in the case of dacoity in the house of Ramdhun Sen, of Panbhoonseet, thannah Rajbulhat

No. 64. A. *nuthee* in the case of dacoity in the house of Callydoss Bose, &c., of Raichuck, thannah Rajbulhat

No 75. A *nuthee* in the case of dacoity in the house of Kashinath Rukhit of Simchuck, thannah Amtah.

No. 85. A *nuthee* in the case of dacoity in the house of Luskon Sheikh, of Komeermorah, thannah Rajbulhat.

No. 155. A *nuthee* in the case of attempt at dacoity in the house of Tarachand Chukerbutty of Balichuck, thannah Amtah.

No. 200. A *nuthee* in the case of dacoity in the house of Gobind Bewa, of Bamunpara thannah Rajbulhat.

No. 75. A *nuthee* in the case of dacoity in the house of Ramcoomar Pramanick of Amgacha, thannah Hareepaul.

No. 213. A *nuthee* in the case of dacoity in the house of Horrochunder Chuckerbutty of Chandbatee, thannah Hureepaul

No. 82. A *nuthee* in the case of dacoity in the house of Goluk Sahoo of Chandbatee, thannah Hureepaul.

No. 37. A *nuthee* in the case of dacoity in the house of Bhogobutty Dhoba of Chandbatee, thannah Hurreepaul

No. 60. A *nuthee* in the case of dacoity in the house of Netaie Doss Byragee of Amgatcha, thannah Hurreepaul.

No. 16. A *nuthee* in the case of dacoity in the house of Ramkulpa Choil of Shampoor, thannah Rajbulhat.

Detailed confession of Modoosoodun Chung.

No. 237. Records of commitment.

PRESENT:
SIR R. BARLOW, BART., *Judge.*

GOVERNMENT
versus
BHEEM BAGDY.

Hooghly.

1855.

October 11.

Case of BHEEM BAGDY.

The prisoner was convicted of having belonged to a gang of dacoits and sentenced to transportation of life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunderseeker Roy, deputy magistrate under the commissioner for the suppression of dacoity.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 6th of September, 1855.

Remarks by the additional sessions judge.—The prisoner was forwarded by the magistrate of Nuddea to the commissioner for the suppression of dacoity, at the latter officer's request. He had just served out a term of imprisonment in the Nuddea jail, which he underwent in default of furnishing security for good behaviour. He seems from the papers submitted by the dacoity commissioner to have been frequently implicated in different dacoities, which had from time to time occurred, in the Nuddea district.

One approver has been brought forward in support of the charge, and he deposes that he was present with the prisoner in a dacoity in Seemhat, and in a dacoity in Salteah.

The confession which the prisoner made before the dacoity commissioner has been proved by two witnesses, who were present at the time and attested it. The number of dacoities confessed by the prisoner was thirty-one.

He admits his confession, pleads guilty to the charge, and declares he has nothing to say in his own defence.

I would convict the prisoner of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner is recognized by one of the approvers; he confessed in detail before the dacoity commissioner to several dacoities, made no defence in the sessions court, and acknowledged the proceedings before the committing officer.

He is sentenced to transportation for life.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KANGALEE MUSSALMAN (No. 5,) DALOO MUSSALMAN (No. 6,) SOMEER ALIAS SAMOO FOQUEER (No. 7,) HYDER FOQEER (No. 8,) TARUCK DOOBY (No. 9,) AUSEEROODEE SHEIKH (No. 10,) JAMAL MUSSALMAN (No. 11,) SREENATH BAGDEE (No. 12,) GOPAL KATAL (No. 13,) RUMJOO FOQUEER (No. 14,) MOHURDEE SHEIKH (No. 15,) AND POOTEE FOQUEER (No. 16.)

Hooghly.

1855.

October 11.

Case of KANGALEE MUSSALMAN and others.

The prisoners were sentenced to transportation for life on conviction of having belonged to a gang of dacoits.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunderseeker Roy, deputy magistrate under the dacoity commissioner for the suppression of dacoity at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 1st June, 1855.

Remarks by the additional sessions judge.—It will not be altogether useless to state the circumstances which gave a clue to, and which attended the capture of the prisoners at the bar.

A heavy dacoity took place in the house of one Cheeneebas Ghose of Gopalnugger, thannah Kutwallee, zillah Burdwan, on the 17th September, 1854, a police jemadar accidentally fell in with the two approvers, Jadoo Dome and Shama Foqueer, with Hyder prisoner No. 8, Gopal Katal prisoner No. 13, and others, not far from Gopalnugger, a few hours after the dacoity.

These parties were made over to the Burdwan sessions to stand their trial in the Gopalnugger case. Hyder and Sona broke jail while under trial, Jadoo and the rest, who stood their trial, were acquitted by Mr. Metcalfe then officiating judge of Burdwan.

Jadoo on his acquittal, represented to the magistrate, that he was familiar with a number of bad characters in and about Burdwan, and begged that he might be sent to the commissioner for the suppression of dacoity, that he might divulge their names, and give the history of their crimes. He was accordingly sent once on the 11th December, 1854, and on the 14th idem, he confessed to forty dacoities, among which was the Gopalnugger case in which he had just been acquitted, committed in company with the approver Sona and the men now at the bar.

Sona was apprehended and brought in to the dacoity commissioner on the 1st February, 1855, and on the same day he confessed to fifty-six dacoities, of which a great portion were

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committed in company with Jadoo his fellow-approver and the prisoners at the bar.

Warrants were immediately made out against the parties implicated in these approvers' confessions and the prisoners Asseerooddee No. 10, Jamal No. 11, and Rumjoo No. 14, were apprehended near Chakda, all at the same time, by Hutoo Fukkur, Burkundaz, who had reason to know the prisoners by having had his house robbed by them some time previously, there was no warrant out against Rumjoo, prisoner No. 14, but Hutoo Burkundaz, finding him in such bad company, thought it right to convey him also to the commissioner for the suppression of dacoity.

On the arrival of this party at the sudder station, the prisoner Asseeroodee informed the commissioner for the suppression of dacoity, that if he wanted Kangalee and other members of his gang, he might easily apprehend them, if he sent immediately to Chakda. A party was forthwith despatched for this purpose, and succeeded the day after in arresting at Chakda, prisoners Kangalee No. 5, Hyder No, 8, and Mohurdee No. 15.

The prisoners No. 9, Taruck, No. 12, Sreenath, No. 13, Gopal, No 16, Pootee, were all subsequently apprehended at different times and places.

The prisoners having been traced and arrested in the manner above described, were no sooner interrogated in respect to their suspected calling before the dacoity commissioner, than they one and all severally admitted their profession to be that of dacoits, and gave details of numerous dacoities committed by each of them, some with one gang and some with another

The number confessed to by all the prisoners makes a total of 149 distinct and separate instances, of which goodly list, Kangalee No 5, admits that he was present in fifty-eight.

Daloo prisoner No. 6, admits having been present in forty.

Someer, prisoner No. 7, having been concerned in twenty-one.

Hyder, prisoner No. 8, admits that he was present in forty-five.

Taruck, prisoner No. 9, admits that he was present in ten.

Asseeroodee, prisoner No. 10, admitted before the commissioner for the suppression of dacoity that he was present in seventeen.

Jamal, prisoner No. 11, admits that he was present in seven.

Sreenath, prisoner No. 12, admitted before the commissioner for the suppression of dacoity that he was present in thirteen.

Gopal Katal, prisoner No. 13, admits that he was present in ten.

Rumjoo, prisoner No. 14, admitted before the commissioner for the suppression of dacoity that he was present in four.

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Mohurdee, prisoner No. 15, admitted before the commissioner for the suppression of dacoity that he was present in fifteen.

Pootee, prisoner No. 16, admitted before the commissioner for the suppression of dacoity that he was present in thirty-two.

The list of names, given by the confessing prisoners, of the persons who formed the gang, on each occasion, embraces the names of all the prisoners, and each prisoner's name appears frequently throughout the several confessions

All but prisoners Nos. 15 and 16, after giving a general list of the dacoities, at which they owned to have been present, furnished a detailed account of each expedition. Prisoners Nos. 15 and 16, did not do so. So many persons confessing at once at such great length, gave the dacoity commissioner and his native deputy magistrate so much to do, that they found it impossible to take the detailed confession of some of the prisoners for some days after they gave their general confession. After prisoners Nos. 15 and 16, Mohurdee and Pootee confessed generally, and before the establishment could find leisure to take down the detailed account of these expeditions, the two prisoners fell sick, and were sent into the Hooghly jail Hospital, where their treatment had not only the salutary effect of stopping their disorders, but also of stopping their mouths. Turned out cured from the Hospital, they stoutly denied that they had ever committed a single dacoity.

All twelve prisoners have, upon their confessions and upon the approver evidence of witnesses Nos. 1 and 2, Jadoo Dome and Sona Foqueer, corroborated as far as there are records to corroborate it, by the result of that public investigation made into the cases specified, been made over to take their trial on the general charge of having belonged to a gang of dacoits

Arraigned before me on this charge, prisoners Nos. 5, 6, 7, 8, 9, 11 and 13, plead guilty to it, and the remaining prisoners, viz., Nos. 10, 12, 14, 15 and 16, plead *not guilty*, and utterly repudiate their confessions.

The witness No. 1, Jadoo, who, as already stated, gave an account of forty different dacoities in his detailed confession before the commissioner for the suppression of dacoity, having given the particulars of fourteen of these expeditions, and all the prisoners, save Rumjoo, having been twice and thrice implicated in these, I did not deem it necessary to require a detail of any of the other expeditions to which this witness was ready to depose.

Of the fourteen dacoity cases of which witness No. 1, has given the particulars, Sona Foqueer, witness No. 2, was personally present with him in ten.

Those of the above said dacoities in which Jadoo was alone present are the dacoity in the house of Amdoo Mundle of Chuckta, committed on the 5th November, 1853, the dacoity in

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the house of Gopal Bunnea of Neala, on the 3rd November, 1853, the dacoity in the house of Donaie Sheikh of Khoobaree, on the 3rd December, 1853, and the dacoity in the house of Ramdhun Sain of Neeshumkho, on the 28th January, 1852. In all the other ten expeditions he was accompanied by witness No. 2, Sona Foqueer.

These ten cases are the dacoity in the house of Ramdhun Haldar of Dhamao, on the 31st October, 1853, the dacoity in the house of Golam Russool of Bheetasunee, on the 1st July, 1853, the dacoity in the house of Kaleepersaud of Jolekool, on the 8th March, 1854, the dacoity in the house of Hurreenarain of Conuoienatsala, on the 18th June, 1854, the dacoity in the house of Roopa Moochee of Azapore, on the 1st June, 1854, the dacoity in the house of Juggurnath Ruckit of Doolooee Bazar, on the 25th February, 1854, the dacoity in the house of Cheeneebas Ghose of Gopalnugger, on the 17th September, 1851, the dacoity in the house of Ramdhun Burrur, on the 6th June, 1854, the dacoity in the house of Kanaram of Ilshurra, on the 2nd June, 1853, and the dacoity in the house of Ramdhun Koberaj Sudgope of Kalsee, on the 29th August, 1854.

Of the fourteen dacoities related by Jadoo, nothing appears, as tending to connect the prisoners with them, except in three cases. I shall limit my description of the dacoities to these three cases, with a remark that of the other cases, some were concealed, some misrepresented and those of which a proper report reached the police were ordinary dacoities.

The Koolbaree dacoity occurred on the 3rd December, 1853. The villagers turned out and fought the dacoits, of whom they wounded one. Blood was traced up to the house of the prisoners, Kangalee and Gopal, and these men were not to be found. The approver Jadoo deposes to these facts, says the wounded man was Mohash, and affirms that Kangalee and Gopal were both in the dacoity as well as Samoo, Mohurdee and Pootee, and all the parties named but Gopal, admit their presence in this dacoity.

In the Jolekool dacoity, a chowkeedar was killed, a second chowkeedar, who also resisted the dacoits recognized, among others, one Gopal Haree, and this man confessed and named Kangalee as one of the dacoits; Kangalee was again not to be found, though a reward was offered for his apprehension. Both Jadoo and Sona name Kangalee in this dacoity and most of the other prisoners.

The last case to be described is the Gopalnugger dacoity. Here, as already stated, a police jemadar seized Hyder, Gopal, Jadoo and Sona, the morning after the dacoity within three *coss* from Gopalnugger. Under the circumstances attending their arrest, there is no doubt they were returning from the Gopalnugger dacoity, and all the men now admit it.

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These cases do, in my opinion, afford evidence of the truthfulness of the approvers' depositions, and entitle them to be believed when they name the persons who accompanied them on those expeditions.

I shall now give an epitome of the proof against each prisoner as established at the trial.

Both witnesses Nos. 1 and 2, Jadoo and Sona agree that prisoner No. 5, Kangalee, was with them in the dacoity at Dhamas, the dacoity in Bheetasunee, the dacoity in Jolekool, and the dacoity in Doolee Bazar. The prisoner admits in his confession that he was present in these very dacoities.

Witnesses Nos. 1 and 2, Jadoo and Sona, agree that prisoner No. 6, Doloo Mussulman was with them in the Dhamas, the Bheetasunee, the Jolekool, the Dolooe Bazar and in the Burrur dacoities, and Doloo, in his detailed confession, admits his presence in the Bheetasunee, the Jolekool, the Dolooe bazar and the Burrur affairs.

Witnesses Nos. 1 and 2, agree that prisoner No. 7, Someer, *alias* Samoo Foqueer was with them in the Dhamas, the Bheetasunee the Jolekool, the Dolooe Bazar, the Gopalnuggur and the Ilshurra dacoities. Among the dacoities of which Samoo himself gave a detailed account, are the Jolekool, the Dolooe Bazar and the Gopalnuggur affairs.

Witnesses Nos. 1 and 2, agree that prisoner No. 8, Hyder was with them in the Dhamas, the Bheetasunee, the Connoinatsala, the Dolooe Bazar, the Gopalnuggur, the Ilshurra, and the Kalsee affairs. The prisoner in his confessions before the dacoity commissioner admits that he committed the Jolekool, the Azapore, the Dolooe Bazar, the Gopalnuggur, and the Kalsee dacoities.

Witnesses Nos. 1 and 2 agree that prisoner No. 9, Taruck was with them in the Dhamas, the Dolooe Bazar and the Ilsurra dacoities. Taruck allows the same.

Witnesses Nos. 1 and 2, agree that prisoner No 10, Aseeruddee was with them when they committed the Dhamas, Bheeteeseenee and the Jolekool dacoities. In his general and detailed confessions before the dacoity commissioner, the prisoner admitted the commission of the Bheeteeseenee and the Jolekool dacoities.

Witnesses Nos. 1 and 2, agree that prisoner No. 11, Jamal, was with them when they committed the Bheeteeseenee, the Dolooe bazar and the Burrur dacoities. The prisoner in his confessions before the dacoity commissioner admits the Jolekool and the Dolooe bazar dacoities.

Witnesses Nos. 1 and 2, agree that the prisoner No. 12, Sreenath Bagdee was with them in the Dhamas and the Ilshurra dacoities. The prisoner admitted before the dacoity commissioner the Dhamas dacoity.

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Witnesses Nos. 1 and 2, agree that the prisoner No. 13, Gopaul was with them when they committed the Connoinatsala, the Gopalnuggur, the Burrur and the Kalsee dacoities. The prisoner in his confessions admitted the Connoinatsala, the Azapore and the Gopalnuggur dacoities.

Witnesses Nos 1 and 2 agree that prisoner No. 15, Mohoruddee, was with them in the Dhamas, the Connoinatsala, the Azapore and the Burrur dacoities. In the general confession of this prisoner, wherein he admitted having committed several of the dacoities in which the approvers and the prisoners were present, none of the above specified dacoities were named by him.

Witnesses Nos. 1 and 2, agree that prisoner No. 16, Pootee was with them in the Dhamas, Bheeteeseenee, the Jolekool, the Azapore, the Dolooe Bazar, the Gopalnuggur, and the Ilsurra dacoities. The prisoner admitted in his general confession that he committed the Gopalnuggur dacoity and numerous others in company with the approvers.

Neither witnesses Nos. 1 or 2, can state positively that prisoner No. 14, Rumjoo, was in any dacoity with them, but Rumjoo in his detailed confessions before the dacoity commissioner, described four separate dacoities in which he had been engaged with Kangalee's gang. These four dacoities are the Dhamas dacoity and three others of a very recent date which took place after the arrest of the two approvers, witnesses Nos. 1 and 2.

The two witnesses give very nearly the same list of persons concerned to each dacoity in their confessions before the dacoity commissioner that they each do in their depositions before my court. Where there is a difference in respect to any of the prisoners, it may be fairly laid down to oversight.

The figured statement given below shows where there is any discrepancy.

Prisoner's number and name.	1. The Dhamas Dacoity.	2. Bheetesseenee Dacoity.	3. Auttuchut-pore Dacoity.	4. Nealah Dacoity.	5. Koolbaree Doeoity.	6 Neashunkho Dacoity.	7. Jholekool Dacoity.	8. Connaienat-sala Dacoity.	9. Azapore Dacoity.	10 Doloee Bazar Dacoity.	11. Gopalnuggur Dacoity.	12. Burrur Dacoity.	13. Ilshurra Dacoity.	14. Khalsee Dacoity.	Remarks.
	Approvers Nos.	Approvers Nos.	Approver No.	Approver No.	Approver No.	Approver No.	Approvers Nos.	Approvers Nos.	Approver No.	Approvers Nos.	Approvers Nos.	Approvers Nos.	Approver No.	Approvers Nos.	These figures refer to the evidence before the dacoity commissioner.
No. 5, Kangalee Mussalman,	1 & 2	1 & 2	1	1	1	..	1 & 2	..	..	1 & 2	..	..	..	..	
	1—2	1—2	1	1	1		1—2			1—2					
,, 6, Doloo Mussalman, ..	1—2	1—2	..	..	..	..	1—2	..	..	1—2	..	1 & 2	2	..	
		1—2					1—2			2		1—2	1—2		
,, 7, Somur *alias* Somo Foqueer, ...	1—2	1—2	1	1	1	..	1—2	..	..	1—2	1 & 2	..	1—2	..	
	1—2	1—2	1	1	1		1—2			1—2	2		1—2		
,, 8, Hyder Foqueer, ...	1—2	1—2	..	..	..	..	2	1 & 2	2	1—2	1—2	1—2	1—2	1 & 2	
	1—2	1—2					1—2	1—2	1 & 2	1—2	1—2	1—2	1—2	1—2	
,, 9, Taruck Dooby, ...	1—2	1	..	1	..	..	..	..	..	1—2	..	..	1—2	..	
	1—2			1											
,, 10, Aussuruddee Sheikh,	1—2	1—2	1	..	..	..	1—2	..	..	1—2	..	..	1	..	
		1—2					1—2			1—2			1—2		
,, 11, Jamal Mussulman,	2	1—2	1	..	..	..	2	..	..	1—2	..	1—2	2	..	
	2	1								1—2		1—2	2		
,, 12, Sreenath Bagdee, ..	1—2	..	..	..	..	1	..	..	..	..	..	..	1—2	..	
	1—2					1							1—2		
,, 13, Gopal Kotal, ...	..	..	..	..	..	..	..	2	1—2	..	1—2	1—2	2	1—2	
								2	1—2		1—2	1—2			
,, 14, Rumjoo Foqueer, ..	..	..	..	..	..	..	..	..	..	..	..	..	..	..	
,, 15, Moharuddee Sheikh,	1—2	1	1	1	1	..	2	1—2	1—2	1	..	1—2	..	..	
	1—2		1	1	..			1—2	1—2			1—2			
,, 16, Pootoo Foqueer, ..	1—2	1—2	1	1	1	..	1—2	..	1—2	1—2	1—2	..	1—2	..	
	1—2	1—2	1	1	1		1—2		1—2	1—2	2		1		

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In respect to prisoners No. 5, Kangalee, No. 6, Daloo Mussulman, No. 7, Someer *alias* Samo, No. 8, Hyder, No. 9, Taruck Dooby, No. 11, Jamal and 13, Gopal, who adhere to their confessions before me, no need of further corroboration exists. They are clearly guilty of the charge laid to them in the calender, on their own confessions.

I will notice the case of each prisoner separately who retracts the confession given by him before the dacoity commissioner.

Ausseeruddee, prisoner No 10, not only confessed to the general charge, but gave a detail of seventeen dacoities in which he had been engaged with the approvers, and with his fellow-prisoners. A confession before an officer of the order and rank of the commissioner for the suppression of dacoity is in itself very strong proof of guilt against the party confessing. The confession is proved to have been given by the prisoner of his own free will and accord. It bears, in the close correspondence of its details with the actual circumstances of each case ascertained by local investigation, the evidence of its own truth; and having been recorded on two separate dates, with an interval of eleven days between the two, there is no ground to presume that the confession was other than the free and deliberate act of the prisoner. It has been already stated that Ausseeruddee has been implicated in the depositions of witnesses Nos. 1 and 2, of having shared in the Dhamas, the Bheeteeseenee and the Jolekool dacoities, the two latter of which he also confessed to, and, as corroborative of this direct evidence that he belongs to a gang of dacoits, there is proof in the record that he was named as having been concerned with Shona Foqueer, witness No. 2, and with Hyder prisoner No. 8, in a highway robbery* committed on the 20th September, 1853. He was recognized in a dacoity† in the house of Gobind Joogee committed on the 17th October, 1849. He was once before seized with the prisoner Doloo by the Officers of dacoity commissioner, but escaped from his guard, again he was seized in company with Jamal and Samoo just before his commitment on the present charge, and from the capture of Kangalee, Hyder, and Mohoruddee in the same place immediately after, on information supplied by Ausseeruddee, these notable dacoits were also clearly of his company at the time of his arrest. His name further continually occurs in the confessions of his fellow-prisoners. All these facts, coupled with the approver evidence, established a presumption that the prisoner has been long associated with a gang of dacoits.

* Record No. 199.

† Record No 315

The remarks immediately preceding, apply also in a great measure to Sreenath Bagdee prisoner No. 12. He made a

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confession before the commissioner for the suppression of dacoity, and gave a full detail of thirteen separate acts committed in company with the approvers and most of his fellow-prisoners. That confession was not recorded in a day but occupied two whole days. It was therefore given with full deliberation and it is proved by witnesses that it was also voluntary. He is named frequently in the confessions of the other prisoners, and he was named by two men seized in the act of a dacoity. This was the dacoity* in the house of one Peareemohun which happened on the 8th January, 1853. The captured dacoits both named Sreenath, but as he denied, and there was no evidence forthcoming against him *at that time*, he was acquitted upon trial.† This very dacoity is one of the thirteen, so circumstantially described by the prisoner. There can be no doubt, then, that the prisoner belonged to a gang of dacoits.

* Record No. 5.

† By the sessions judge of Burdwan.

The prisoner Rumjoo, No. 14, confessed to four dacoities, one of them, as already stated, was the Dhamas affair, but neither of the approvers can say he was concerned in it, nor do any of the confessing prisoners name him prior to his own arrest. His own confession is the great thing against him, and that, added to his arrest in company with men of previous known bad character, and who in the present trial now amply proves to have been members of an organized gang of dacoits, cannot fail, in my opinion, to carry conviction to the mind that the prisoner was associated when he was apprehended, and had been so, for some time previous, with a gang for the purpose of dacoity. His confession bears evident marks of being a truthful statement His account of two of his expeditions (the other two were misrepresented) tallies with the real facts, as elicited by enquiry made into these cases, and the names he gives of the men who formed the gang on each of the four expeditions agrees with those of the approvers, in the only dacoity *they* committed *with the prisoner*, and with those of his fellow-prisoners, who accompanied him on the three dacoities, in which the approvers *did not go*. If his confession had been a repetition of what he had been taught to say, he might certainly have learnt the particulars of four or five dacoities from the recital of others, with sufficient accuracy to be able to relate them, but, unless he had himself joined in them, it is morally impossible that he could, with such near approach to accuracy, recollect and name properly, the different persons who formed the gang on each occasion. This is a test which no teaching could attain in any number of cases, I am therefore persuaded that the confession was not only voluntary, as it has been proved to be, but that it is in substance true, and upon that I hold that the prisoner is guilty of having belonged to a gang of dacoits.

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The prisoner Mohurdee No. 15, as already stated, made a general confession to the commissioner of fifteen different dacoities. He is said by the approvers Nos. 1 and 2, to have accompanied them in the Dhamas, the Connoinatsala, the Azapore, and the Burrur dacoities. He himself admitted that he had taken part with Kangalee and others in fifteen dacoities. Among these is the dacoity in the village of Kolebaree which took place on the 3rd December, 1853. He was, it appears, recognized while engaged in this dacoity, but he managed to escape apprehension. He mentions also, and confesses to it, another dacoity which took place in the house of one Aram-oollah, on the 29th December, 1851. In this he was arrested but discharged by the darogah. He appears to have been a *latteeal*, as well as a dacoit, and to have contracted a marriage with a woman of Koolingram, the very centre of Kangalee's depredations, and in whose house he was actually arrested. He is moreover frequently named by his fellow-prisoners in their confessions. The proof that he belonged to a gang of dacoits is, in my opinion, quite complete against the prisoner.

The prisoner Pootee No. 16, also made a general confession to thirty-two dacoities. He is said by witnesses Nos. 1 and 2, to have been with them when they committed the Dhamas, the Bheeteeseenee, the Jolekool, the Azapore, the Dolooe Bazar, the Gopalnugger and the Hurra dacoities, of which the last but one is among the thirty-two confessed to by the prisoner himself. It further appears from his confession that he committed a dacoity in October, 1852, in the house of one Eusuf Sheikh of Deeneesee, and from the record of that case, I learn that a man by name Teencowree was caught in the act, and named the prisoner, but the Burdwan magistrate did not even summon the prisoner in that case. He was reported to the Burdwan magistrate as a man of noted bad character with Sona Foqueer, and he was named frequently in the confession of Bhoota Dhoba, a convicted dacoit, since transported. No name appears oftener in the confessions than that of the prisoner. I consider it proved, beyond all doubt, that he belonged to a gang of dacoits.

The Court have expressed their opinion in some former trials, that the charge of belonging to a gang of dacoits is too general. The reason which seems to have made the dacoity commissioner commit the prisoners on the general charge, without giving any specification of the cases which would be cited against them in proof was, that the prisoners had pleaded guilty to the charge. Under the circumstances I did not consider it necessary to have the charge amended.

Convicting all the prisoners of the charge laid to them, I recommend that they be transported for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The prisoners Nos. 5, 6, 7, 8, 9, 11

and 13, have confessed throughout, while prisoners Nos. 10, 12, 14, 15 and 16, confessed before the dacoity commissioner. Their confessions before that authority are fully proved to have been voluntary, and the corroborating circumstance, noticed by the additional sessions judge, are established by reference to the records cited by him.

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Prisoners Nos. 10, 12, 14 and 16, have presented a petition to this Court in which they assign grounds of enmity on the part of the approvers, which if true, they would have urged before the sessions court. No. 16 was also represented by Chundernath Deb, a pleader of the Court, who declined to say any thing but left his case in the hands of the Court. We concur with the sessions judge in convicting the prisoners of having belonged to a gang of dacoits, and sentence them to imprisonment for life in transportation beyond seas.

PRESENT:

A. DICK, ESQ. SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND SHEIKH DANISH

versus

IHATY MALEE.

Sylhet. 1855. October 11. Case of IHATY MALEE.

CRIME CHARGED.—Wilful murder of Sheikh Koleem, son of the prosecutor.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 4th July, 1855.

The act of the prisoner held to be wilful murder, capital sentence passed.

Remarks by the sessions judge.—From the confessions of the prisoners, made voluntarily before the darogah and magistrate, and the evidence of three eye witnesses, it is proved that the prisoner was transplanting rice in his field, while the deceased was grazing cattle near him and the cattle trespassed upon the prisoner's ground. He immediately sprung upon the deceased, a child of twelve years of age, with a *dao*, and cut him down and inflicted seven wounds on his person two of which were sufficient to cause death.

In his confession the prisoner says the deceased used abusive language to him and struck him; but Kashee Malee and Ootum Malee, witnesses, who were close by, declare that they heard no abuse given whatever.

The prisoner pleaded guilty before my court, and I explained to him the meaning of the charge when he again pleaded guilty,

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and the plea was therefore recorded against him. He called no witnesses and offered no defence, and in concurrence with the opinion of the assessors, I convict the prisoner of wilful murder.

Had the provocation pleaded by the prisoner been proved it would not, in my opinion, with reference to the tender years of the deceased, have been any extenuation of the prisoner's guilt, for the evidence of the civil surgeon proves the attack to have been a most savage one, and I therefore sentence the prisoner to death.

Remarks by the Nizamut Adawlut. (Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. B. J. Colvin.)

Mr. A. Dick.—The eye-witnesses to the killing of the deceased by the prisoner distinctly state that they know not whether any abuse was given or not, by the deceased to the prisoner, nor whether any previous cause of enmity existed. On this point, it is to be regretted that neither the magistrate, nor the sessions judge asked the prisoner if any one was present, when the deceased on a former occasion abused and insulted him by spitting at him.

The prisoner, in his confessions, declares that he had been abused and spit at by the deceased, a Mussulman; and when he trespassed with his cattle on the crop that he, prisoner, was weeding, prisoner told him repeatedly to drive them off, which instead of doing, he gave abuse and threatened to strike, and seized his hair and slapped him, which so enraged him, that he could not command himself, and instantly cut deceased down.

It is incredible, that without some very aggravating cause, a man, who is not accused of being quarrelsome or passionate, should have so outrageously attacked a stripling. It is further to be observed, that the rage and attack were momentary, the weapon used was in the hand. There was no time for thought. The extreme violence of the attack proves the extreme nature of the provocation, and so far corroborates the confession, which should be taken entire, unless where contradicted by the evidence on record.

I do not think the crime amounts to more than aggravated culpable homicide, and I would convict prisoner of that crime, and sentence him to fourteen years' imprisonment with labor in irons.

Mr. B. J. Colvin.—I consider the prisoner guilty of murder. His purpose clearly was to kill the deceased whom he struck repeatedly with his *dao* and twice on vital parts. The provocation he received was not such as to palliate the act, I therefore would sentence him, as proposed by the sessions judge, to death.

Sir R. Barlow.—The prisoner before the police confessed that in consequence of the deceased, a boy of ten or twelve years of age, abusing him and seizing him by the hair, at the same time striking him on the neck, he, the prisoner, "*resolved to kill*

him though he should be hanged for it." Before the magistrate, he again confessed, omitting, however, the portion of his previous confession, though upon being questioned he admitted the fact that he had made it. Three young lads, ages varying between sixteen and nineteen, saw and heard all that occurred. They did not hear any abuse pass between the deceased and the prisoner; nor did they witness the alleged assault on the prisoner, they saw deceased cut to pieces by the prisoner, who, they describe, as having the seed plants in his hands, *not* the *dao*, which prisoner says was near him, when the deceased boy attacked him and which he used as above stated.

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There appears to have been no sufficient provocation, indeed so far as the record shews, no provocation at all, for the murderous assault of the prisoner upon the boy, and no justification whatever for his having armed himself with so dangerous a weapon; with this he inflicted seven wounds on the deceased and killed him on the spot; I cannot see any ground for a mitigated punishment, and concur with Mr. Colvin in sentencing the prisoner capitally as proposed by the sessions judge.

PRESENT:

SIR R. BARLOW, BART., *Judge*.

GOVERNMENT

versus

NILCOMUL GHOSE GWALLA.

Hooghly.

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Case of NILCOMUL GHOSE GWALLA.

Prisoner convicted of having belonged to a gang of dacoits, sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunderseeker Roy, deputy magistrate of Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 7th September, 1855.

Remarks by the additional sessions judge.—The prisoner, having been named by some approvers, was transferred, at the dacoity commissioner's request, from the Nuddea jail, where he was under confinement in default of security for good behaviour, the call for security having been considered necessary from his name having been mixed up in connection with several dacoities which had occurred in the Nuddea district.

Being interrogated as to his course of life by the dacoity commissioner he made an early confession of all his crimes.

The witness Becon Sheikh, who was one of the approvers who originally implicated the prisoner, has given his evidence at the trial, and he deposes that the prisoner was concerned with him in the commission of two dacoities, one in the village of Seemhat and the other in the village of Salteah.

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The confession of the prisoner! taken in the dacoity commissioner's office, has been proved to have been freely and voluntarily made by the prisoner. He admits at the trial before me that such is the character of his confession, and he declines to make any defence.

I would convict the prisoner of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner makes no defence in the sessions court and acknowledges his confession before the dacoity commissioner.

Prisoner is sentenced to transportation for life.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

CHEEROO CHUNG (No. 29,) SHAYBUCK CHUNG ALIAS SHAYBA CHUNG SIRCAR (No. 30,) BHOOBUN SIRDAR CHUNG (No. 31.)

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Prisoners convicted on the evidence of approvers, corroborated by their own admissions that they were near relatives of notorious dacoits, and had been repeatedly apprehended on suspicion and by the evident falsity of the defences they set up of being falsely accused by the approvers.

CRIME CHARGED.—Having belonged to a gang of dacoits and committed the following dacoities, viz., prisoner No. 29, in the house of Hullodhur Mundul at Hatgacha, thannah Umbeka, zillah Burdwan, on the night of the 21st April, 1844, corresponding with the 10th Boisak, 1251; Nos. 29 and 31, in the house of Joynarain Majee at Deymurgacha, thannah Benipore, zillah Hooghly, on the night of the 19th May, 1844; No. 29, in the house of Gorachand Shet at Golagoree, thannah Pundooa, zillah Hooghly, on the night of the 9th August, 1844; Nos. 29, 30 and 31, in the house of Kashinath Surnokar at Dapara, thannah Pundooa, zillah Hooghly, on the night of the 8th November, 1844, in the house of Shagur Koondoo at Shumragoree, thannah Pundooa, zillah Hooghly, on the night of the 6th December, 1844, corresponding with the 22nd Uggrau, 1251; No. 29, in the house of Tareeneechurn Roy at Panchpara, thannah Benipore, zillah Hooghly, on the night of the 26th July, 1847, and on the night of the 16th August, 1847, corresponding with the 1st Bhaddur, 1254; No. 31, in the house of Mohesh Pal at Bankipore, thannah Benipore, zillah Hooghly; on the night of the 13th November, 1847, and in the house of Bhoirub Chatterjee at Bankipore, thannah Benipore, zillah Hooghly, on the night of the 30th June, 1848; Nos. 29, 30 and 31, in the house of Bishonath Bashoo at Kochatee, thannah Bansbarria, zillah Hooghly; on the night of the 27th October, 1848, corresponding with the 12th Kartick, 1255; Nos.

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29, 30 and 31, about nine or ten years ago in the house of Shibchunder Chuckerbutty at Amulmoree, thannah Pundooa, zillah Hooghly ; No. 30, having assembled to commit a dacoity at a village of thannah Pundooa, zillah Hooghly, on the day of *hoera rutjattra ;* No. 31, in the house of Boikuntnath Mookerjee at Baligaree, thannah Benipore, zillah Hooghly, on the night of the 16th February, 1847, corresponding with the 5th Falgoon, 1253; No. 31, in the house of Ramdhun Surnokar at Deegra, thannah Benipore, zillah Hooghly, on the night of the 21st December, 1848, corresponding with the 9th Pous, 1251.

Committing Officer.—Baboo Chunderseeker Roy, deputy magistrate, under the commissioner for the suppression of dacoity, at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 3rd July, 1855.

Remarks by the additional sessions judge.—The prisoners are charged with having belonged to a gang of dacoits and to have committed, collectively, fourteen different dacoities of which some of the prisoners were in many, some in a few.

The dacoities which are more particularly described are the Hatgacha, the Deymurgacha, the Golagoree, the Shumragoree, the Dapara, the 1st Panchpara, the 2nd ditto, the 1st Bankipore, the 2nd ditto, the Kochatee, the Amulmoree the intended dacoity within Pundooa, the Baleegoree and the Deegra dacoities. These will be designated when reference is made to any of them in this letter, as they are summaraly described.

Prisoner No. 29, Cheeroo Chung, is charged with having been concerned in the Hatgacha, the Deymurgacha, the Golagoree, the Shumragoree, the Dapara, the 1st and 2nd Panchpara, the Kochatee and the Amulmoree dacoities.

Prisoner No. 30, Shaybuck Chung, is charged with having been concerned in the Shumragoree, the Dapara, the Kochatee, the Amulmoree, and the intended dacoity within Paroa.

Prisoner No. 31, Bhoobun Sirdar, is charged with having been concerned in the Deymurgacha, the Golagoree, the Shumragoree, the Dapara, the 1st and 2nd Bankipore, the Kochatee, the Amulmoree, the Baleegoree and the Deegra dacoities.

The prisoners plead *not guilty*.

Witness No. 1, Nobeen Ghose, deposes to the Hatgacha, the Deymurgacha, the Golagoree,* the Shumragoree, the Dapara, and the Amulmoree dacoities.

Witness No. 2, Dabee Ghose, deposes to the Hatgacha, the Shumragoree, the Dapara and the Amulmoree dacoities.

Witness No. 3, Mahdub Dass, deposes to the Hatgacha, the Shumragoree, the Dapara, the 1st and 2nd Panchpara, the 1st Bankipoor, the Kochatee, and the Deegra dacoities.

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Witness No. 4, Nemie Nikaree, deposes to the 1st and 2nd Bankipore and the Baleegoree dacoities.

A verbatim translation of the deposition of these witnesses in this place will show the particular circumstances attending each dacoity, and many other points of useful and generally interesting information, at the same time that the evidence in full in a shape easily and quickly to be read, will enable the reader to detect the incongruous, as well as the consistent parts of it, and thus afford the means of better judging of the degree of credibility due to each witness.

The evidence of Nobeen Ghose, approver, witness No. 1,—being interrogated, says: I am acquainted with all the prisoners. I was present in the Hatgacha dacoity, the particulars of it are these:—about ten years ago it happened, the Sirdars were, Dabee Ghose, Beesu Dobea and Satcowree. The spies were Panchcowree Dass and Golab Roy; Panchcowree Dass came to my residence in Ranadee and told me of it. On the day the dacoity was to take place, I, Dabee Ghose and five or six others, having crossed the river went to Golab Roy's house in Kaleanoy, at two *dunds* of the day remaining, starting from there, we arrived at five or six *dunds*, on the Soepara *mát*. There were there, under a tree, some ten or twelve other persons assembled. The prisoner, Cheeroo Chung, of Koegoree, No. 29, had collected these men and taken them there. There was near at hand a clump of bamboos, from which Cheeroo Chung had cut some bamboos and bringing them to us, we made our weapons out of them. Leaving that place, we proceeded to another on the Hatgacha north *mát*, where there are two Hindoo idol shrines, sitting down there and performing *Kalee poojah* at 12 o'clock we went up to the Mundul's house, I and others, whose names I don't remember, having got over the wall entered the premises, undid the front door. Dabee Ghose, Beesu Doolea, Satcowree and Jadoo Ghose were put upon sentry, and all the rest of the gang went inside. The house of worship was among the houses nearest the entrance, and in it were some persons asleep, whom I took under my keeping, the dacoits having cut open the door and got inside the houses, there was a great uproar. Going inside the house and looking in at the door, I saw a woman with a child in her arms, whom the dacoits were pulling about to get from her her jewels, I took the child in my arms, and returned to the *thakoorbaree*, where, of the number of men who had been there originally, only two were left, giving the child to them, I stood upon my post. Going a second time to the house, I saw a pot of sweetmeats hanging from the roof, the dacoits having broken the pot with a *lattee*, the contents fell to the ground, I filled a *kutt*o*ora* with the sweetmeats, and coming outside, I and Dabee Ghose eat them. The dacoits afterwards came out too, and having all of us gone to the *mát* we were

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searched. I cannot say what was the amount of our plunder I got one or a pair of *boutees*, a pair of *taveez*, and Madhub Dass gave me a couple of hand-fulls of rupees and pice mixed together I don't know how many pice there were but there were 32 Rs. in silver. We each of us then went home, we were in this affair from twenty to twenty-five men in all. There was no one injured in this affair nor were any of us apprehended. There were in this dacoity the persons hereinafter named, viz., Cheeroo Chung, No. 29, Dabee Ghose, Haran Sheikh, Kishto Boona, Kylas Boona, Premchand Bagdee, Beesu Dolea, Satcowree, Bolaie Gowalla, Nobeen Ghose of Chota-Daoree, Madhub Dass, Nokoor Myra, Ishore Ghose, Mohun Sadgope, Jummea Mussulman, Jadoo Ghose.

Being interrogated, says: I was in the Dummergacha dacoity. The particulars are these. It happened about ten years ago. The Sirdars were Gopal Boona, and Panchcowree Dass, the latter was the spy also, I was then in the service of Ishan Ghosal of Shurbomungola; at 3 o'clock of the day of the dacoity Panchcowree Dass having called me, took me to the Dummergacha *mat*. We arrived there at the close of evening. Others had preceded us, and were sitting there. They had already prepared weapons. Having made *poojah* there at 12 at night we rose and went to the house of Joynarain Manjhee. Opposite the sudder entrance, there was a *thakoor-baree*, in front of which several persons were assembled singing, the sudder door was open, rushing into the *thakoor baree*, we seized the men (among them were two chowkeedars) and having tied them securely with their own clothes, we took the arrows, swords, guns, lances, and bamboos belonging to the chowkeedars. Some of the men who had been in the *thakoor-baree*, managed to run away. Nubba Pode, Manick Sooree, Muddoo Haree, Gopal Bona, Baore Khan, and Muddoo of his village, were on *ghatee*, the rest of the dacoits went inside and plundered the houses, I also went inside, and now and then I went and stood sentry. There was a marriage in the house at the time, and many women, not belonging to the house, were there, their jewels were taken from them, telling us they were not women of the houses, but relatives of the owner, they were allowed to depart. One of the women belonging to the house pointing out a chest, it was broken open, and some money was found in it. What we thought was a bag of rupees turned out to be a bag of pice. Having plundered the house, and got upon the *mat*, there was a search, no jewels were obtained, each concealed what he managed to find. Opening the bag we saw it contained pice, I got a handfull of them, they were *tirsoolee* pice and I threw them away at once. There was an investigation, but none of the dacoits were apprehended. I heard the proprietor of the house was fined 50 Rs. but for what, I can't say. We were in

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this affair twenty to twenty-five men and the following were among that number, Cheeroo Chung, No. 29, Bhoobun Charal No. 31, Muddoo Haree, Baore Khan, Mohun Mal, Gopal Sheikh, Nubba Pode, Manick Sooree, Nuffer Mussulman, Kishto Boona, Gopal Boona, and Panchcowree Dass.

Being interrogated, says: I did go upon the Golagoree dacoity in the house of Gorachand Sait. It happened nine or ten years ago. The Sirdars were Panchcowree Dass, and Govind Charal. They were the spies also, I was then living with Ishan Ghosal of Cala Noy, Panchcowree Dass coming to me at that place, gave me information, he and I, and five or six others, starting together, arrived at 1 *puhar* of the night of the dacoity on the *golaghur* south *mat*, Gobind, Muddoo Charal and others brought us bamboos, &c. to that place; performing *Kalee poojah* there, we rose and having arrived at the Sait's house we got over the wall by an *anjeer* tree, there was on the north east corner of the wall, and then opening the sudder door, the dacoits entered the premises. The owner of the house and his son, with *lattees* in their hands, drove the dacoits out, and put out our *mussals;* lighting them again, and going into the premises for a second time, we seized the owner and beat him. I hit him a blow with my *lattee* on his shoulder and disabling him, we then tied him and put him under a *kuddoo machan.* Frightening him, I got him to show us a chest, breaking it open, we found a box, inside which there was some money, the rupees were covered with indigo, and quite black with it. Coming to the *mat* with that box we were all searched we broke the box and taking the money out of it, the rupees, which we thought to be pice at the time, we gave in handsfull to each of us and the rest of the plunder was hid by those who succeeded in getting any; I got a handful of what we thought was pice, but the next day I saw what they were, and I found I had got 30 rupees. In this dacoity there were present Cheeroo Chung, No. 29, Bhobun Chung, No. 31, Gobind Charal, Muddoo Charal, Ramchand Charal, Manick Sirdar, Panchcowree Dass, Chundee Bagdee, Ishore Chutterjah, Myhaish Dass, Muddoo Sadgope, or Kyburrut, Madhaub Mundul, Mohun Sadgope and Dabee Ghose.

Being interrogated says: I was present in the Soomragurree dacoity in the house of Shagur Koond. It happened about nine years ago. The Sirdars were Golab Roy and Panchcowree Ghose, and they were also the spies, I was told of it by Madhub Dass and Panchcowree Dass. On the day of the dacoity, I went to Golab Roy's house in Kalea Noy and at 12 P. M. I eat dinner, I cannot recollect from what place I came to Golab Roy's house, ten or twelve others also eat dinner at Golab Roy's house and, at 2 or 4 *dunds* of the day remaining, we left it, one or two at a time and proceeded to Soomragurree

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Hat mát, which we reached at 1½ *puhar* of night. We found there 10 or 12 other persons joining them and preparing our weapons, we started for the Koond's house after *poojah*, and got to it at 12 at night. The wall having been scaled and the outer door unfastened, all the dacoits entered the premises. Dabee Ghose Nubba Pode, Ishore Misree, Muddoo Suddun, Gobind Chuckerbutty and Mohun Chasa took their stand as sentries, the rest went inside and breaking the doors and entering the houses, plundered them. The house was a brick one, and fearing that some one would be getting on the roof and pelting us with bricks, I got on it myself from the thatched roof of another house, I found a bamboo on the roof of the first story, and with it I ascended the second story and sat there, Madhub Dass was with me. After the dacoits had plundered the first story, and had got into the upper, we got down and went to our posts. The dacoits having plundered the house, came out, but there was not much property obtained. A Nundee lived opposite the Koond, and I ran towards his house intending to sack it, the chowkeedar was there opposite the sudder door and he came at me, I aimed a blow at him with my *lattee*, but he cut it through with his sword, my companions coming up, beat one, of four chowkeedars there were together, rather severely and he fell, the other three then fled. On the road there was a *thakoor-baree*. Thinking it was the residence of some villagers I broke open the lock and saw inside an image of *Kalee*, taking three sacrificial knives there were there, we came out. In the mean time some of the other dacoits had plundered a Koolin's house, and the houses of two other villagers, of whose caste I am not acquainted, I did not go inside these two latter houses, but I did go inside the Kolu's house, and I know it was a Kolu's house because there was an oil-mill at work inside. We were searched when we got on the *mat*, we arrived the next morning at dawn with the *mal* at Golab Roy's house depositing the *mal* there we smoked. There was among the property a necklace of beads which I had concealed by me. The darogah arrived at that moment at Golab Roy's house, when every one ran out of it. I too fled with the necklace to Kulna, and sold it at Hurris Poddar's shop in Kulna, Golab was apprehended and sentenced to fourteen years' imprisonment but no one else was sentenced. There were in this dacoity all the three prisoners, and Golab Roy, Panchcowree Dass, Hurree Haree, Chundee Bagdee, Satcowree, Praimchand Bagdee, Nobba Pode, Neeta Haree, Manik Sooree, Prishunno Sooree, Takeer Ghose, Dabee Ghose, Madhub Dass, Govind Chuckerbutty, Mohun Ghose, Dabee Roy, Bhasta Mussalman and Khoodeeram Baratee. There were twenty-five or twenty-six of us in all.

Being interrogated says: I was in the Dapara dacoity in the house of Kasheenath goldsmith. It happened nine years ago,

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Panchcowree Dass and Dabee Ghose were the sirdars. The spies were Panchcowree and Golab Roy. The former of these two gave me information. Ten or twelve men of my gang having eat dinner at Golab Roy's house, on the day of the dacoity, we started on the dacoity at four *gurries* of day remaining, and at one or half *puhars* we arrived on a tank, south-east of Dapara. There were there ten or twelve men belonging to this side of the river, joining them, we made up our *mussals*, bamboos, &c. and after performing *Kalee pujah*, we went up to the goldsmith's house. The main door was a small one, breaking through it, we entered the premises, I, Panchcowree, and Dabee remained on sentry. There was not much plunder obtained. The chief thing obtained was a lump of melted silver or gold. The village chowkeedar having shot an arrow into Madhub Doss's leg, we got alarmed and decamped. The villagers pelted us with bricks and shot arrows at us. There was no search, when we got on the *mat*, I got nothing; I can't say what amount of property was got, but I believe it was very inconsiderable. This was the reason there was no division, every one was allowed to keep what he had, Panchcowree promised me some thing, but he did not keep his word. We were twenty-six or twenty-seven men in all, and among us were Cheeroo Chung, No. 29, Shabuk Chung, No. 30, Bhubun Chung, Panchcowree Dass, Hurree Haree, Satcowree Ghose, Praimchand Bagdee, Mohun Ghose, Dabee Ghose, Madhub Dass, Ishore Ghose, Odeet Bagdee, No. 2, Nobin Ghose, Jadoo Ghose, and Hurrish Ghose.

Being interrogated says: I was not concerned in either of the two dacoities in Panchpara, nor was I in either of the two Bankipore dacoities, nor was I in the Kochatee dacoity, but I was present at the Amulmoree dacoity in the house of Shibchunder Chuckerbuttee. It happened ten or eleven years ago, Shabuck Chung and Gopal Boona were the Sirdars. The spies were Panchcowree Dass and Gopal Roy. The former called for me at Ishan Ghosal's house in Shorbomongola. He had prepared me before for this dacoity. We started, taking in our company five or six others, and at one and half *puhars* of night, we arrived at a tank, were there is the tomb of a *peer*. South of Amulmoree, we found some others of our gang there, when we joined them, our united numbers were perhaps twenty men, after remaining a little while there, we proceeded to a spot quite close to the village and made *Kalee pujah*. We entered the premises by smashing the door, and the plunder began. We took the clothes in which men dress up in costume at the *jatras*, the jingles, and cymbals used on the same occasion, and jewels and cash and other things. One of the dacoits brought out into the verandah while the rest were in the house, a *pettarah*, while he was trying to break it open I put my hand in under the lid, and laid hold of a bag of money, with which I came out side. While we were

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in the house the villagers threw bricks and fired arrows at us, we ran off as soon as we got out of the premises and going to the Peerastana where we had been previously assembled, we where searched and the plunder was divided. We threw away the *jatra* costumes and when we got to the Bydpore *mat* the morning broke. Dabee Ghose told Haran Mussalman to throw into a tank there was there, the bundle of brass and pewter things he was carrying, he did so, several of us then went to Golab Roy's house with the property we got, and Gopal Boona and Panchcowree Dass, with whom our shares were, gave it to Golab Roy, the latter sold it and gave every one ten shares, but he gave me nothing but I got the money which I found in the *pittarah* I gave Dabee Ghose a few rupees out of it. There were present in this dacoity, Cheeroo Chung No. 29, Shabuck Chung, No. 30, Bhoobun Sirdar, No. 31, Panchcowree Dass, Gopal Boona, Kishto Boona, Kylas Boona, Haran Mussalman, Dabee Ghose, and Dassoo by caste a Chandal I fancy of Orjoona We were altogether nineteen or twenty of us.

Being interrogated says: I was not in the Baleegurree or in Degurra dacoities.

The evidence of Dabee Ghose approver witness No. 2. Being interrogated says: I had previous acquaintance with the prisoners, I was present in the Shatgacha dacoity in the house of Hullodhur Mundul. Eight or nine years ago it took place. Nobin Ghose, the approver Golab Roy and Panchcowree Dass were the Sirdars, the latter was the spy, Nobin Ghose the approver, having come to my house told me of it. On the day the dacoity was to take place, I, Mohun Ghose, and three or six others went to Golab Roy's house, in Kaleanoy, and made our day's meal there. There were some five or six others assembled there. At close of evening, we all left, and six *dunds* of night we arrived at Soopara *mat*, where we saw Shabuck Sirdar No. 30, seated with ten or twelve of his followers, I did not know then that the dacoity was to be in Hatgacha, and thought it was to have been in some other place. The spy in the dacoity, I supposed we had assembled to commit, had not joined us up to 11 o'clock, Panchcowree said then, we must give up the intended dacoity, and he told us to go and commit a dacoity in Hullodhur Mundul's house in Hatgacha, I said I lived once in Hatgacha, I can't go there, but it was decided that the dacoity should take place. We had taken some bamboos and so forth with us and Cheeroo Chung, No. 29, brought us some more. We started off on the dacoity, Panchcowree went home, going and sitting by the Sheeb *mat* which is on the Hatgacha north *mat*, we made *Kalee poojah*, and then went to the Mundul's house, Nobin Ghose scaled the wall, and undid the door for us, the dacoits entered the premises, I, Beesu, Satcowree, Cheeroo Chung No. 29, Mohun Ghose, Premchand Ghose, and Prem-

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chand Bagdee were the sentries. The rest began the plunder, I did not go inside the premises, Nobin brought some sweetmeats in a *kuttorah* from the house and he and I eat them. After this the dacoits all came outside. No one was injured and none of us were apprehended. At the search on the *mat* some of the dacoits decamped. What they had with them I did not see. Some brass and pewter things were found on those who were present at the search, we brought these things to Golab Roy's house and leaving them there went home. Two or three days after that, Nobin brought me to my house 5 or 6 Rs. as my share and he said Panchcowree had been caught by the police. and that has cost a lot of money that is the reason you have got so little. There were present in this dacoity Cheeroo Chung, No. 29, Shabuck Chung Sirdar, No. 30, Nobin Ghose, Madhub Dass, Beesu Dolea, Satcowree, Prasinna Bagdee, Praima Ghose, Mohun Ghose, Prishun Sooree, Rammaish Ghose, Jadoo Bangal, Kishto Boona and Kylas Boona. There were about twenty or twenty-two of us.

Being interrogated says: I was not in the Damoorgacha dacoity, nor in the Goolagurree dacoity, but I was present in the Soomragurree dacoity in the house of Sagur Koond. It took place eight or nine years ago, Golab Roy and Panchcowree Dass were the Sirdars and the spies. Nobin Ghose came and told me of it at my own house. At evening of the day of the dacoity, I, Govind and ten others crossed the river, one or two at a time, and made for Golab Roy's house. Our ten followers and several men of this side collected gradually at Golab Roy's house, leaving in the same manner, we all proceeded to the Soepara *mat*. Several other persons then and there joined us. Shabuck Sirdar, No. 30, and Cheeroo Chung, No. 29, brought us bamboos and *chhurs* and then we moved on to Shumragoree north *mat*. There we made *Kalee poojah* and after that went to the Koond's house, Nobin Ghose scaled the wall, unfastened the door and let us in. The dacoits entered I, Bhoobun Sirdar, No. 31, Golab Roy, Panchcowree Dass, Govind Chuckrabutty, Ishore Missree, Shabuck Sirdar, No 30, Seru Sirdar No. 2, Nobin Ghose were placed as sentries. I did not go inside the house, what took place there I can't say. The plunder lasted two or four *dunds*. While the dacoits were engaged in the plunder of the Koond's house, those of us who were on sentry entered a Kolu's house, but he had nothing that we could plunder, except some brass pots and pans which were not worth our taking.

The owner had run off, a light was burning in the house where his oil-mill was, and the mill was then at work. We returned from this fruitless attempt to our posts. And at that moment Nobin Ghose was running to get into a villager's house, to the north of the place we were posted and near the *Thakoor-baree Joy Kalee*. As he was about to enter the house with a *lattee*

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in his hand, he was met by some persons at the door, they cut Nobin's *lattee* in two, he retreated to us saying they have murdered me. Gobind Chuckrabutty and Bhoobun Sirdar went up to the men and knocking over one of the four, the rest ran off. There was not much property found in Sagur Koond's house. As we were leaving, thinking the *Thakoor-baree* was some villager's house we broke it open, and entering saw the image of *Kalee* there. We took three sacrificial knives we found there, and then we left. The villagers were shouting from a distance, but they did not approach us. When we got to the mat the search commenced, when some one suddenly called out "here are the villagers." We then did not go on with the search, every one ran away with what he got. From those who had been searched, there was found some brass and pewter things. I stood a little distance from the place where the search was being made to see if the villagers were really coming. So I cannot say if any jewels or cash were obtained. The brass things were taken by the eight or nine of us, who remained to Golab Roy's house and leaving them there we each went home. Sunto Mussulman took away a sacrificial knife; three or four days afterwards, Nobin Ghose gave me, as my share of this dacoity 7 or 8 rupees; as soon as we had deposited the above said property in Golab Roy's house, Ishan Ghosal of Shorbomongola, who was sitting there from the time we arrived, took the property from Golab Roy and sent it to his own house by some men he had brought with him for the purpose. As we were leaving Golab Roy's house early in the morning, a lot of persons were seen coming towards Golab Roy's house. Seeing them we made haste off, I and Nobin Ghose went to our own homes through Shorbomongola village. I heard that evening that Golab Roy had been carried off to the thannah. There were in this dacoity Shabuck Sirdar, No. 30, Seeru Sirdar, No. 2, Cheeroo Chung, No. 29, Bhoobun Sirdar, No. 31, Golab Roy, Panchcowree Dass, Hurree Sirdar, Munoo Chung, Satcowree, Praima Bagdee, Nobin Ghose, Madhub Dass, Sunto Mussulman, Mohun Ghose, Paimchand Ghose, Rammaish Ghose, Chokooree. Prishunna Sooree, and Nundo Ghose. There were about thirty of us.

Being interrogated says: I was present in the Dapara dacoity, eight or nine years ago the dacoity took place. The Sirdars, were Panchcowree Dass and Bhoobun Sirdar, No. 31. They were also the spies. Nobin Ghose came to my house and informed me of it. At 12 P. M. of the day of the dacoity, I went alone to Panchcowree Dass's house in Kaleanoy. By evening every one else had arrived there. Leaving that, twos and threes at a time, the whole party were assembled at 1½ *puhars* on the Soepara *mat*. Shabuck Sirdar, and Cheeru Chung, No. 29, brought us bamboos, &c. from some place. Leaving

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that, we proceeded to a tank on the north of Dapara and near to it, at 12 o'clock, we performed *Kalee poojah*, and then went up to the house. The sudder door gave way after a few blows of our *lattees*, and Panchcowree Dass, Bhoobun Sirdar, No. 31, Shabuck Sirdar, No. 30, Mohun Ghose, Praimchand Ghose, Satcowree and I were the sentries. The rest went inside and began to plunder the houses. The villagers fired arrows and one hit Madhub Dass on the leg. This occasioned a great confusion among us and we left directly. The villagers followed us. We were not able to plunder the house of much, every one ran away with what he was able to find. Panchcowree said he would give me something but he never did. Those who were in the dacoity are Shabuck Sirdar, No. 30, Cheeroo Chung, No. 29, Bhoobun Sirdar, No. 31, Nobin Ghose, Madhub Dass, Panchcowree Dass, Hurree Sirdar, Munno Chung, Satcowree, Praina Bagdee, Mohun Ghose, Praimchand Ghose, Rammaish, Chokooree Gowalla, Prishanna Sooree, Jadoo Bangal. I don't recollect any body else, but we were in all from twenty to twenty-nine persons.

Being interrogated says: I was not present at either the 1st or 2nd Panchpara dacoity, nor was I in either the 1st or 2nd Bankipoor dacoity, nor in the Kochatee dacoity, but I was present in the Amulmooree dacoity. It happened about twelve years ago and it was in a brahmun's house. Panchcowree Dass and Shabuck Sirdar, No. 30, were the Sirdars and the spies on the occasion. Nobin Ghose informed me of it, at one *puhar* of the day of the dacoity, I, and Harran Mussulman came to Golab Roy's house, eat dinner there, and remained the rest of the day. At the close of the day, all the rest of the gang having arrived there, we adjourned to the Amulmooree south *mat*. Leaving that at 12 at night, we went on to a Peertoollah south of the village, and then made *Kalee poojah*. After which we attacked the Brahmin's house. The wall being scaled, and the door unfastened we entered, Golab Roy, Panchcowree Doss, Shabuck Sirdar, No. 30, Bhoobun Sirdar and I were the sentries. The rest of the dacoits proceeded inside and plundered the house. The villagers came and began to pelt bricks at us. We left and having got to the *mât* the search was made. We obtained sundry brass and pewter things and as we were proceeding off with them the morning broke. The things were therefore thrown into a tank, I went home. The rest went to Golab Roy's house, I can't say if there were any silver or gold articles found. The next day Nobeen Ghose gave me nine or ten rupees. There were in this dacoity Shaybuck Chung, No. 30, Cheeroo Chung, No. 29, Bhoobun Sirdar, No. 31, Panchcowree Dass, Hurree Sirdar, Golab Roy, Gopal Boona, Kylas Boona, Kishto Boona, Haran Sirdar, Nobeen Ghose and I. I cannot recollect any more.

Being interrogated says: I was with the gang on the day there was to be a *ruth* in Hoyara, about ten years ago, when the same were assembled for the purpose of committing a dacoity in some place within the Pundooa thannah. The day before the *ruth*, Nobeen Ghose informed me of it and said that Shaybuck Sirdar, No. 30, had arrived at Golab Roy's house, and that a dacoity was to be committed in Parroa, and that Golab Roy had sent him to fetch me, so I and Nobeen Ghose went on the day of the *ruth* to Golab Roy's house, where we found Kishto Boona, Gopal Boona and Kylas Boona sitting. Golab Roy told us to go one at a time and assemble in Shaybuck Sirdars', (No. 30,) house in Mookdoobree. Accordingly we did so at two-half *purs*. We eat some of us at Shaybuck's and some of us at other places, and we started to go and see the *ruth* in Pundooa. Shaybuck said, the owner of the house was not there, and that the dacoity could not take place, so that night I, Golab Roy and Nobeen Ghose stayed at Shaybuck's house and the next day we went home.

The evidence of Madhub Dass approver, witness No. 3.

Being interrogated says: I was previously acquainted with the prisoners. Being interrogated says: I was in the Hatgacha dacoity in the house of Hullodhur Mundul. It took place eight or nine years ago. The Sirdars were, Panchcowree Dass and Golab Roy, only the former was the spy. A day or two prior to the dacoity, Soonder Sirdar came to my house early and asked me to join in it, and he mentioned what day it was to take place. On the day fixed, I eat dinner at home, and at 12 o'clock P. M., I started with Soonder and reached Sumboo Badooree's house in Umbeka at 3 P. M. There were five or six of our gang there. Leaving it, we started off for Panchcowree Dass's house in Hatgacha, more men in number; five or six were there, at two *ghurrees* of night we left his house three and four at a time, and proceeding to the Soepara *mât*, sat down there, others came and joined our company there. Cheeroo Chung, prisoner No. 29, and Panchcowree Dass having brought to us at that place bamboos and other paraphernalia for the dacoity, and every one being collected we got up from there at 9 or 10 o'clock and proceeded to where there are two small temples under a *peepul* tree, ten *beegahs* north of the Mundul's house, performing *Kallee poojah* there, we went near the Mundul's house, at two or two-half *purs* of night, the sudder door being unfastened by some one scaling the wall, the dacoits entered the enclosure. Dabee Ghose and some others were the sentries. I went inside to join the plunderers, I saw a woman running off from the south house, I stopped her and took off her arm a silver *loha*. Then I went into the south house and saw a child asleep. Nobeen took it in his arms and said, where is the money? He said it is buried in *this* house, so we dug up the foundation, but we

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got no money, going into the house in which were several jars of *goor*, we found a box on the ground, we broke it open, and got out of it some rupees and pice, we were engaged an hour in the plunder, and then leaving, we made the search on the *nuddee*, to the north of the village. The search was about to begin, when the dacoits began to squabble, and there was no division, every one took what he had and went off. The rupees and the pice we found in the box were tied up in my clothes. Nobeen took two handsfull of that money, after which we each went home. We got 2 or 250 Rs. worth of property in this dacoity and there were present in it, Cheeroo Chung, prisoner No. 29, Dabee Ghose, Nobeen Ghose, Ishore Ghose, Praimchand Ghose, Mohun Ghose, Mohesh Ghose, Pagla Boona, Satcowree, Praima Bagdee, Beesu Dolea, Neemaie Moochee, Muddun Roy, Bishonath Sirdar, Teloke Sirdar, Nowcowree Kaiat, Hobboo Mussulman, Soonder Sirdar and Chundee Sooree, I don't recollect any more, but we were from twenty to twenty-five in all.

Being interrogated says: I was not present in the Deymurgacha or the Golagoree dacoity, but I was present in the Shumragoree dacoity in the house of Shagur Koondoo; Panchcowree Dass and Golab Roy were both the Sirdars and the spies on the occasion. Two or three days prior to the dacoity, Soonder Sirdar informed me of it. At two or four *dunds* of the day of the dacoity, I left home with Soonder Sirdar and arrived at 12 P. M., at Golab Roy's house in Kaleanoy. There were present there, three or four other persons. We eat dinner there, and leaving a few at a time we proceeded to the Soepara *mât* and there assembled. It was then two or three *ghurrees* of night, and every one having arrived by 8 or 9 o'clock, we quitted that place for a tank on the east *mât* and on the northern portion of it, there we sat down and performed *Kallee poojah*, at 12 o'clock we went up to the Koondoo's house. The door was unfastened by some one of our number who scaled the wall. Having placed sentries, the plunder commenced. Panchcowree Dass, Dabee Ghose and Bhoobun Sirdar, prisoner No. 31, were the sentries, I joined the plunderers, Nobeen and I having got upon the thatch of a house and from that on to the roof of the adjoining house, ascended the second story of it by a bamboo we found there. The board or platform by which egress and ingress could be made from the roof down to the rooms below, had been removed (on the principle of a draw-bridge) so not being able to get in that way, we came down, and cutting open the door of the ground floor, and entering the rooms, we found that the passage to the rooms above was stopped in the same manner as already described, but we managed to cut the rope by which the wooden platform had been lifted up and it accordingly fell down, we then ascended the stairs and got into the second story and plundered it. Finishing and coming out, we

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were intending to attack another house, when we saw a chowkeedar standing with a *khara* in his hand behind the broken wall, he aimed a blow at Nobeen but it missed him. We unitedly set upon the chowkeedar and having caught hold of him and beaten him, he fell down bleeding. Thinking that the chowkeedar would die, we gave up the intention of committing this other dacoity and left. Passing the east door of the first house, (the one we had robbed) we saw on some ploughed land, some money scattered about, we picked up some of it. Having committed the dacoity we made straight for Golab Roy's house and every one gave up to him what they each had on them, we all remained there the rest of the night and eat soaked Indian corn and *goor*. The next day we went to our own homes. The property remained with Golab Roy who promised to sell it and pay us, but he paid nobody but me, and he gave me 25 Rs. There were present in this dacoity Bhoobun Sirdar, prisoner No. 31, Cheeroo Sirdar, prisoner No. 29, Seru Sirdar No. 2, Shaybuck Chung, prisoner No. 30, Panchcowree Dass, Shama Baitee, Hurree Haree, Chunder Sirdar, Praima Kyburrut, Rama Bagdee, Surroop Chung Sirdar, Neebi Chowkeedar, Ramchand Sirdar, Muddun Mussulman, Soonder Sirdar, Dabee Ghose, Nobeen Ghose, Ishore Ghose, Praimchand Ghose, Mohesh Ghose and I, no other names occur to me, we were in all thirty or thirty-five persons and we obtained near upon 1000 Rupees worth of plunder.

Being interrogated says, I was present in the Dapara dacoity in the house of Kasheenath goldsmith. The spies were, Panchcowree Dass, Golab Roy and Shabuck Chung, prisoner No. 30. The Sirdars were Bhoobun Sirdar, prisoner No. 31, Panchcowree Dass and Golab Roy. Soonder Sirdar gave me information of it, I can't recollect how many days before the dacoity he did so, I left home at two *ghurries* of the dacoity and at 12 P. M. I arrived at Panchcowree's house in Hatgacha I eat dinner there, there were at Panchcowree's house five or seven persons assembled, at evening we left it, one or two at a time and proceeding to the Soepara *mat*, sat down there, we found others sitting there, having made ready our weapons at 8 or 10 at night we adjourned to Dapara tank and having performed *Kallee poojah* on the north side of it, went at 12 o'clock up to the goldsmith's house. The door was unfastened by some one scaling the wall; stationing sentries, we broke into the houses and plundered them; Dabee Ghose, Cheeroo Chung, prisoner No. 29, Bhoobun Sirdar, prisoner, No. 31 were the sentries, I joined the gang who plundered the houses, while we were so engaged, the villagers arrived and fired arrows at us, this stopped us, and we came out, I got hit on the leg by an arrow and was disabled, the other dacoits having attacked the villagers, they fled. We took that opportunity to retire, and came to the Soepara *mat*.

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There was no search or division, as every one said they got nothing. Some went in the direction of Kaleanoy, I came home. There were in this affair Cheeroo Chung, prisoner No. 29, Bhoobun Sirdar, prisoner No. 31, Shabuck Chung, prisoner No. 30, Panchcowree Dass, Shama Baitee, Hurree Haree, Chundee Sirdar, Praima Kyburrut, Nobin Ghose, Debee Ghose, Ishore Ghose, Praimchand Ghose, Soonder Sirdar and I, I don't recollect any more, I can't say what amount of property was plundered, I got a gold *bajoo* which I gave to Golab Roy and he paid 8 rupees for it.

Being interrogated says: I was in both the Panchpara dacoities. The first affair happened thus: I, Cheeroo Chung, prisoner No. 29, Satcowree, and another, whom I have quite forgotton, went one night with the intention of committing a theft in the house of Tareneechurn Roy, we got over the wall. Removing the earth by the side of the door, and opening the fastening, we entered the house, we took off a woman's neck, whom we found asleep, a gold bead necklace, on which she roared out. The chowkeedar arrived and began to do the same, which put us to flight; four or five months after this, we had been to Hanskalee to commit a dacoity there, but we could not do it, as our men had not arrived, so on our way home, when we reached Santipore, we agreed to commit the dacoity in Tarenee's house, I came ahead of the rest to my own house, and getting every thing ready for the dacoity, I went and sat down at *Gadeyachee Thakoortullah.* The rest of the gang came there, having made *Kallee poojah* at 12 o'clock, we scaled the wall of Tarenee's house, and opening the door, the dacoits entered, Khoodeeram Burratee and Anund Sheekaree were the sentries, the rest went to plunder the houses. A chowkeedar was sleeping in the *Chandee Mundul*, we seized him, took away his sword and shield and put him in charge of one of the dacoits, the plunder having lasted one *ghurree,* we finished and left. The Sirdars were Satcowree and Cheeroo Chung, prisoner No. 29, we obtained about 300 Rs. worth of plunder, but there was no search or division, every one took what he had. There were in this dacoity Cheeroo Chung, prisoner No. 29, Satcowree, Sooka Dome, Shoba Gwallah, Muddun Ghose, Bycunt Ghose, Radoo Telee, Khoodeeram Baratee, Anund Shakaree and I. There were in all, not more than ten or twelve of us, and recollect now that Telook Sirdar was also with us. I got a *rajaie* in this dacoity.

Being interrogated says: I committed, seven or eight years ago, the dacoity in the house of Myhaish Paul of Bankipore, Bhoobun Chung prisoner, No. 31, was in this dacoity. The day the dacoity was to take place, Nema Nikaree of Bankipore, no, not of Bankipore, but of Shoomra, gave me information of it at about bathing-time and he directed me at night to go to

Akepara tank on the east *mât* of Dooda village, accordingly I left home that evening, and went to the place appointed, where I saw Nemaie with several men assembled, and *mussals* &c., all ready. Sitting there and making *Kallee poojah*, we went after 12 o'clock to the Paul's house, cutting through the door, we went inside, but we found no silver or gold articles of any value, the clothes lying about in the house were carried off by any one who chose to take them. There was no door at the main entrance. There were in this dacoity Bhoobun Sirdar, Nemaie Nikaree, Bachu Bhur, a Potoa, Muddun Ghose, Tara Alkosee, Praima Kyburrut, Neelu Chowkeedar, Surroop Chowkeedar, Ishóre Koormee and I, there were in all fifteen or sixteen of us.

Being interrogated says: I was not in the second Bankipore dacoity in Bhyrub Chutterjah's house, but I was in Kochatee dacoity in the house of Bishonath Bose. It took place four or five years ago, Nobin, Cheeroo Chung, prisoner No. 29, and Seeroo Chung, prisoner No 2, of calendar No. 2, of April, were the Sirdars and the spies. On the day of the dacoity, I was returning home from Calcutta, when at about 9 or 10 o'clock in the morning, I fell in with the two Seerus, prisoners Nos. 29 and 2 in Neasurrie. They said to me, "Three days ago, we went on a dacoity and returned without accomplishing it, we are to do it to-night, come with us." They accordingly prevailed on me to stop, I eat dinner in Neasurraie Bazar and spent the day there; at two *gurrees* of night the dacoits assembled in the bazar, bringing with them their bamboos &c. taking these, at eight or nine, at night, we went to a Bungalow on the banks of the river in Chunderhatee Rygonathpore, belonging to a *kaist* or a Brahmin, whose name I don't know. Bhoobun's brother was a servant in the house of that *kaet* or Brahmin and his name was Ramtarun, he was called to the Bungalow and we then started for the Kochatee north *mat*, Ramtarun had brought and supplied us with bamboos &c., and being all together, we performed *Kallee poojah*, and immediately after presented ourselves at the Bose's house. There was a *khirkee* door to the west. Scaling the wall and undoing the *khirkee* door several of the dacoits went and stood inside; of these, Cheeroo Chung prisoner No. 29, Seeru Chung, prisoner No. 2 of the calendar No. 2, of April and some others whom I now forget, remained as sentries, and the others went inside the premises, but discovering that the stair-case had a draw-bridge contrivance, they could not get inside. We had a bamboo with us, placing it against the north wall, Nobeen and I, and two or three others whom I forget, got on the roof. From it the owner was pelting the dacoits who were below, Nobeen preparing to strike him with a *koolharee* he carried in his hand, he jumped down from the roof. We could not see any one of our gang in the pre-

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mises, we called to them but they did not reply, so we came down by the stair-case of the house, and getting out by the *khirkee* door, we discovered that the whole gang had fled, we too were running off, when getting up to the place where we had made *Kallee poojah*, we overtook our gang engaged in a skirmish with the villagers. The villagers were in the rear, and ahead of them was a chowkeedar who wounded a *Khottah* of our gang with a spear, the wound extended from the shoulder to the cheek-bone and the *Khottah* fell disabled. The chowkeedar then fell back and we took up the wounded man and ran off, he was able to walk; Nobeen said, after we had gone on a bit, that the man could not live, and that we had better cut his head off. On this the two Cheerus interfered in behalf of the wounded man, and they took charge of him, we went home, we got no property, I heard afterwards that the man who jumped down from the roof was the owner's son-in-law, he is yet a cripple from the fall. There went in this dacoity Cheeru Chung, prisoner No. 29, Cheeru Chung prisoner No. 2, Bhoobun Sirdar, prisoner, No. 31, Shaybuck Sirdar, prisoner No. 30, Ramtarun Chung, Kala Chung, Shama Bagdee, Nobeen Sirdar, Nursing Chung, Kasseenath Chung, Muddoo Chung, Mahdhub Sirdar, Neeloo Chowkeedar, Shurroop Chowkeedar Ramchand Sirdar, I and others whom I can't recollect, but there were from twenty to twenty-five of us.

Being interrogated says: I was not in the Amulmoree dacoity, nor in the Pandooa intended dacoity, nor in the Baleegoree dacoity, but I was present in the Degurra dacoity in the house of Ramdhun goldsmith. It took place about four years ago, Bhoobun Sirdar, prisoner No. 31, and Surroop were the Sirdars, Neeloo was also a Sirdar. They were all the spies too, I was then a fugitive in the affray case of Oomochurn Baboo, and went to Bhoobun Sirdar's house in Hatgacha with the intention of committing a dacoity some where. He said he was going that very day to commit a dacoity in Degurra, and told me to come too, and that the assembly was to take place in Neckobasaie village, where I had better go; at twelve *purs* of that day I went to the place named and eat dinner in Praima Kyburrut's house, and stayed all day there, at evening going on the north *mat* of Neekobasaie, I saw others assembled there, and I joined them; going from there, we went to another place to a jack-tree on the south of Deegra, Sohaie, Ram Ghose of Deegra brought us bamboos, *mussals*, &c. and after we had finished *Kallee poojah*, we made for the Goldsmith's house. The wall was broken, the sudder entrance was open, we entered the premises and shattering the doors of the house, we plundered them. Bhoobun Sirdar, prisoner No. 31, and who others I don't recollect, were the sentries, I joined the plunderers. We got no cash or jewels, the villagers arrived making a shouting. We went away with

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such few brass and pewter things as we were able to find, no one was hurt in this affair, every one kept what he found in the house. There was no search or division, I got nothing. There were present in this dacoity Bhoobun, prisoner, No. 31, Sohaie, Ram Ghose, Neeloo Chowkeedar, Surroop Chowkeedar, Praima Kyburrut, Chundee Sirdar, Rama Bagdee, Hurree Haree, Muddun Mussalman and I, we were in all ten or twelve persons.

The evidence of Nemaie, approver, witness No. 4.

Being interrogated says: I am acquainted with all the prisoners. The several dacoities specified in the calendar having been read out, he is asked whether he committed any of the dacoities and which of them? Answer, I committed both the dacoities in Bankipore and the dacoity in Baleegoree. State the particulars of the dacoity in the house of Mahaish Pal of Bankora? Answer. This dacoity happened five or six years ago, Bhoobun Sirdar, prisoner No. 31, was the Sirdar and I was the spy, he and I together got men for it, at 8 P. M. of the day of the dacoity, we all assembled at Jooga tank in Mooragurra village, which is west of Bankipore. We brought bamboos, *churs*, &c. with us, we had only to get ready our *mussals*, and when we had done this, and held the *Kallee poojah*, we went up to the Pal's house. The entrance door was unfastened by some one of us scaling the wall. The dacoits then entered the premises, I was on *ghattee*, but I cannot say whether there were any others. The plunderers having gone to the houses and smashed the doors, and the boxes, and possessed themselves of their contents, came out. We went off in a body to the place where we had made *Kallee poojah*, as my house was near Bankipore, and as if I received any of the plundered articles, I might be detected. I compounded my share for 5 Rs. which being paid to me, I came away home. I did not see what property had been obtained, and I cannot say what was the value of it. The dacoity was investigated, but none of the property was recovered nor were any of the dacoits detected. We were not opposed by the villagers during the dacoity, but after we came away, the chowkeedar shouted after us, but did not come near us. When I got home with my 5 Rs. the Bankipore farreedar and a chowkeedar of Shomra came during the same night to my house and charged me with having committed this dacoity, I denied. The farreedar put his hand on me and said, "You did go, your body is quite cold, if you had been asleep in your bed your body would have been warm," in this way he accused me, and I as often denied, and at last I gave him the 5 Rs. which I received as my share of the dacoity and that contented him. Bankipore and Shoomra are adjoining villages, only four or five *beegahs* apart. There were present in this dacoity Bhoobun Sirdar, prisoner No. 31, Madhub Dass, Tara Gwalla, Alkoosee, Tunno Khandar, Bonmallee Ghose, Khater Khan, Raiechurn Joogee, Nobeen Sirdar, Goora Haree, Nobeen

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Pora, I don't recollect any more, but there were about twenty of us.

State the particulars of the dacoity in the house of Bhyrub Chatterjah of Bankipore? Answer. It happened about seven years ago, Bhoobun Sirdar, prisoner No. 31 was the Sirdar, I was the spy, we collected the men between us, and we each took our followers at 10 o'clock of the night of the dacoity at Jooga tank in Mooragurra village. We there prepared our bamboos, &c., and having made *Kallee poojah* we went up to the Chatterjee's house. We got into the premises by one of us scaling the wall and undoing the door, Muddun Gwalla, Bhoobun Sirdar, prisoner No. 31 and I were the sentries. The plunderers having gone to the houses and demolished the doors, plundered the house. The owner of the house rushing out of the private apartments into the sudder *baree*, began to scream, Bhoobun Sirdar, prisoner No. 31, left his post and went up to the man and knocked him down. The villagers collected and came up and the fareedar was there also, Muddun Gwalla hit the fareedar on the head and tumbled him over, giving him another blow on the arm, he snatched his sword out of his hand. We came away, leaving the fareedar where he was knocked down. The division was made at the Jooga tank, where we had made *Kallee poojah*, I received a *tabeez* and some rupees. What the others got, I can't say, there must have been about 100 Rs. worth of property robbed. There were with us Bhoobun Sirdar, prisoner No. 31, Muddun Gwalla, Jadoo Moochee, Bahadoor Sirdar, Anund Mussulman, Jadoo Bagdee, Bindrabun Potoa, Raechurn Joogee, Nobeen Kurra and his sister's husband, whose name I am not acquainted with, Nobeen Sirdar of Chorgurrea, Pulhad Chung and Jutton Kowra, I don't remember any more, we were about twenty in all

State the particulars of the Balegurree dacoity? Answer. We committed the dacoity six or seven years ago. Ruttun Sirdar and Bhoobun Sirdar, prisoners No. 31, were the Sirdars, I was the informer, Bhoobun and I assembled the gang at 10 o'clock on the night of the dacoity, I proceeded from my house to a *bagan* of Hurronarain Baboo in Shoomra, there the dacoits were assembled, and we then went to another *bagan* of Ramkunt Roy in Balegurree; Bhoobun was there with several of his men and we joined forces, we took our weapons with us, and after *Kallee poojah* we went up to Bykunt Mookeyah's house which was the one we intended to attack; one of us scaled the wall and undoing the inner fastening of the door, the way into the premises was clear, Tarun, Bhoobun, and Bhoga Dolea were the sentries, I was sentry also. The dacoits having entered, lit their *mussals*, and after demolishing doors and boxes, plundered the houses. The owner was standing at the door of his *malghur* with a sword in his hand, we did not there-

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fore go into that house, but all the other houses were entered and plundered. No one was injured in this affair, I can't say whether there was any division or not, but when we got into the *bagan* where we had made *Kallee poojah*, I gave up my claim to any share for four rupees. Taking this, I went away home, which was close by, I can't say what property was obtained. The next day the darogah arrived and apprehended me, I got off by paying him five or six rupees. Nobody else was apprehended. There were in this dacoity Bhoobun Sirdar, prisoner No. 31, Rutton Sirdar, Doorga Chandal, Prishuno Charal, Pirtab Bhor, Ishore Bhor, Dookra Moochee, Rama Chassa, Nobeen Pora, Goora Joogee, Nobeen Gowalla, Raechurn Joogee, Jooru Nikaree and Praima Haree, I don't remember any more, there were in all twenty or twenty-five of us.

Nobeen Ghose recalled and examined.

When did your acquaintance with prisoner No. 29, Cheroo Chung, first commence?

It began when I resided at Shorbomungola. I did not know him before.

Was your house in Shorbomongola then, or in what way were you a resident of Shorbomongola?

I was in service with Ishan Ghosal.

Where did Cheeroo Chung prisoner No. 29, reside then?

In Koegurree one and half *coss* from Shorbomongola, I used often to meet him in Golab Roy's house and in Pancheowree Doss's house in Kaleanoy, which is quite close to Shorbomongola.

What was Cheeroo Chung's employment then?

He was chowkeedar of his own village, and he was a thief besides, and used to give Golab Roy information of places where a dacoity would be worth committing.

Which was the first dacoity you committed with Cheeroo Chung, prisoner No. 29?

I can't recollect this.

When your acquaintance began, were you an old hand and was he?

I was a new hand, I can't say whether Cheeroo Chung was so or not.

Was Cheeroo Chung a *lattial*, as well as a dacoit?

I have never known him to be so employed.

Why then did you tell the commissioner of dacoity that you knew Cheeroo Chung from his having been employed as a *teeka lattial?*

I admit he was so employed for a short time, and that I was in error in saying that he never was *lattial.*

When did your acquaintance commence with Shabuck Chung?

It began ten or twelve years ago, we met and used often to do so in Golab Roy's house in Kaleanoy.

What was his profession?

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He was a chowkeedar, but I can't say of what village, he was a thief, dacoit and *lattial* also.

Where did he live when you first knew him?

In Mookdoobree.

How far is this from Kaleanoy?

I am not aware.

Do you recollect which was the first dacoity you committed with Shaybuck?

The Amulmoree, I think.

When did your acquaintance with Bhoobun begin?

It began when I was at Shorbomongola. He was then a *lattial*, wherever he could find employment. His house was then in Hatgacha. I used to meet him frequently at Golab Roy's, and he was a *teeka lattial* with Ishan Ghosal, while I was there.

How long have you known him?

Ten or twelve years.

Which was the first dacoity you committed with him?

The Amulmoree dacoity.

How long have you known Cheeroo Chung, prisoner No. 2?

Ten or twelve years. He was a *lattial*, and as such was employed as a *teeka lattial* by the Ghosal, whom I served. He then lived in Chacklaie.

How far is that from Shorbomongola?

I can't say.

Did he frequent Golab Roy's house?

Yes, I have met him there often.

Which was your first dacoity with him?

The Golagoree dacoity.

Was Cheeroo Chung, prisoner No. 2, in the Dapara dacoity?

No.

Then how came you to tell the dacoity commissioner that he was?

I am not aware that I did so. If I did, it was a mistake.

Dabee Ghose re-called and examined. Since when have you known Cheeroo Chung, prisoner No. 29?

I have known him since the time I committed the Amulnoree dacoity with him.

How long was this?

About ten or eleven years.

Did you not know him before this?

No, when he came to Golab Roy's house to go on the Amulmoree dacoity, I there saw him for the first time.

Being a stranger to you, did you enquire who and what he was?

Golab Roy told me he was a right sort of a man, and understood his business.

Have you met him often since then?

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Yes, often at Golab Roy's house, and we have been often on the same dacoities.

What was his profession when you first knew him?

I was told that he cultivated some land, but I believe he lived entirely by theft and dacoity.

Was he ever a *lattial?*

Yes, I have heard so, but I can't say that I have ever seen him so employed.

Where did he live?

At Koegoree.

Where did you live then?

At Baleadanga, the other side of the river, opposite Koolnah.

How far is that from Koegoree?

Five or six *coss*.

How far are those places from Kaleanoy?

They are nearly equidistant, Kaleanoy is on the direct road from Baleadanga to Koegoree.

Do you and Nobeen live in the same place?

Not exactly, but our two villages are not more than an arrow-shot apart.

How long have you known Shaybuck Chung?

From the time of the Amulmoree dacoity.

Were you a dacoit before this?

Yes, but I only committed one dacoity before the Amulmoree one.

What dacoity was that?

The Muddoo-Sreerampore.

Was that with Golab Roy's gang?

No. It was with the gang of Gopal Boona, and Kalakata Gwalla.

What made you leave their gang and join Golab Roy's gang?

Kalakata cheated me out of my share in four or five thefts, this is one reason and another is, that Nobeen Ghose took service with Ishore Ghosal and joined Golab Roy, and he introduced me to the gang.

Then you were a thief before you became a dacoit?

No. I commenced as a dacoit at once and the thefts alluded to, I committed after the Muddoo-Sreerampore dacoity.

What was Shabuck's occupation when you first knew him?

I heard he was a cultivator, I can't say if he was in service.

Have you committed dacoities often with Shabuck?

Not very often, about four or five times. The Amulmoree, the Dapara, the Shumragoree dacoity and the intended dacoity in Paradol.

How long have you known Bhoobun?

Since the Amulmoree dacoity, I met him at Golab Roy's house when he came there to start on the Amulmoree dacoity.

What was his profession?

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He was a *lattial*, and a chowkeedar, so I was told by Golab Roy.

Where did he live, and how far from Kaleanoy?

In Hatgacha one and half *coss* from Kaleanoy.

How long have you known Cheeroo Chung, prisoner No. 2?

I met him for the first time in Golab Roy's house, when I went there to prepare for the Shumragoree dacoity. Golab Roy told me that he was a proper good dacoit, and that he was the informer in the Shumragoree dacoity.

Have you committed many dacoities with him?

No, only the Shumragoree dacoity.

Have you seen him or met him since then?

No, Golab Roy's gang was broken up on his apprehension in the Shumragoree dacoity, I have not met him since.

Did you never meet him casually before the Shumragoree dacoity?

No

Having only met him once several years ago; Are you quite sure that this prisoner is the man you saw on that one occasion?

I am quite sure the prisoner is the man, I was in jail with him for four months subsequent to the Shumragoree dacoity.

Mahdhub Dass, witness No. 3, re-called and examined.

How long have you known Cheeroo Chung prisoner No. 29?

For eight or nine years.

Did you know him before the Hatgacha dacoity?

Yes.

How long before?

About a year or two before.

How, and where, did your acquaintance begin with him?

I met him first in Panchcowree Das's house which he and I both frequented, Soonder Sirdar lived in my village. Cheeroo is a relative of his, and I used to see him there too occasionally.

What was his occupation then?

He had some land, his father was in service, but his real occupation was dacoity.

Have you known Shaybuck Chung long?

About ten or eleven years.

How did your acquaintance begin?

Soonder Sirdar is Shaybuck's relative, I have met him at Soonder's house.

What was his profession?

He was a cultivator, and I was told by him that he was a servant with some Mussalman in Pundooa, but he got his living mostly by dacoity.

How long have you known Bhoobun?

I have known him since a child, Soonder Sirdar is his mother's

brother, he lodged with him when we began to commit dacoity in company together. 1855.

Being residents of the same place, how is it that you have not committed many dacoities together? October 11.

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He was in service some part of the time, and had not therefore opportunity of joining us always. How long have you known Cheeru Chung, prisoner No. 2?

For ten or twelve years.

When did you meet him first?

At Soonder Sirdar's house when he came to go on the Goepara dacoity.

What did you hear of him there?

I was told that he was a new hand as I was. We were both in Soonder Sirdar's *dull*, he was then a very active athletic fellow, more so than he is now.

Did he go with you in the Shumragorree dacoity?

Yes.

Why did you not name him to the dacoity commissioner as concerned in the said dacoity?

From inadvertence.

Nemaie Nikaree called and examined.

Since when have you known Bhoobun Chung prisoner No. 31?

For eight or nine years.

When did you meet him first?

He was a servant of Pertab Mookerjeah of Kolora, I live half *coss* from that, and used often to see the prisoner when he came to the bazar in my village.

Of what gang were you then?

Of Soonder Sirdar's.

Which was the first dacoity you ever committed with the prisoner?

Either the Kolora or the Bankipore dacoity.

Who was the Sirdar in your first dacoity with Bhoobun?

Bhoobun himself, he had a gang of his own.

Is his gang and Soonder's gang the same?

No, they are separate.

Were they always separate?

Always, that is, since I have known him.

With a view further to facilitate comparison, I annex a statement being an analysis as to identity of each approver's examination before the dacoity commissioner and before my court.

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Name and Number of Prisoners.	No. 1. The Hatgacha Dacoity.	No. 2. Damergacha Dacoity.	No. 3. Golagurree.	No. 4. Soomragurree.	No. 5. Dapara.	No. 6. 1st Punchpara Dacoity.	No. 7. 2d Ditto.	No. 8. 1st Bunkipoor Dacoity.	No. 9. 2d Ditto.	No. 10. Kochatee.	No. 11. Amulmoree.	No. 12. Some village within Pandooa thannah.	No. 13. Baleegurree.	No. 14. Digna.	Remarks.
29 Cheeroo Chung, ...	Apprs. Nos. 1, 2, 3. * * *	Apprs. No. 1 *	Apprs No 1 *	Apprs Nos 1, 2, 3 * * *	Apprs Nos 1, 2, 3 * * *	Apprs No 3 *	Apprs No. 3 *	0	0	Apprs No. 3 *	Apprs Nos *, 2. 1 *	0	0	0	The figures marked * refer to the evidence before the Dacoity Commissioner.
	1, 2, 3,	1	1	1, 2, 3	1, 2, 3	3	3	0	0	3	1, 2,	0	0	0	
30 Shaybuck Chung alias, Shayba Chung, Sircar,	2	0	0	1, 2, 3	1, 2, 3,	0	0	0	0	3	1, 2,	2	0	0	
	0	0	0	* * * 1, 2, 3	* * * 1, 2, 3	0	0	0	0	* 3	* * 1, 2,	* 2	0	0	
31 Bhoobun, ...	0	1 *	1 *	1, 2, 3 * * *	1, 2. 3 * * *	0	0	3, 4, * *	4 *	3 *	1, 2, * *	0	4 *	3 *	
Sirdar Chung, ...	0	1	1	1, 2, 3,	1, 2, 3	0	0	3, 4,	4	3	1, 2,	0	4	3	

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Except that prisoner No. 29, Cheeroo Chung and prisoner No. 30, Shaybuck Chung have been frequently apprehended on charges of dacoity and theft, (which is so far corroborative of association in crime that they afford evidence of bad character) there is nothing either in the record of the general cases produced upon the trial, or in the records of investigation made in the special cases charged in the calendar, which can be regarded as corroborative evidence that the prisoners did commit the dacoities specified, or that they belonged to a gang of dacoits. The case against them, it must be admitted, rests almost entirely on the evidence of the approvers. If, that can be shown to be trustworthy, the case of the prisoners is hopeless; for the evidence convicts them all.

Different persons examined at different times without previous concert or collusion, implicating the same persons in the same string of crimes, is a thing so impossible to happen by chance, and so impossible under any circumstances, except when the parties deposing were in very truth in company with the persons they severally affirm to have been their companions, that I know of no kind of evidence superior to it, and none which deserves to be more implicitly relied upon, for chance cannot produce it, ingenuity cannot manufacture it, combination could not sustain it, and unless truth were the foundation of it, it must inevitably tumble to pieces.

What can or ought to carry conviction to the mind sooner than that evidence which, by a double test, proves its own truthfulness. The approvers are, it is true, tainted characters; and so were the Thug witnesses, to whom, nevertheless, the crime of *thuggee* owes its extinction, the testimony of an accomplice is never to be received except with great caution, and ought never to be received at all, unless corroborated. These are maxims which every one must allow. But it is also equally apparent, that however base men may be, if the case admits of no better evidence, their testimony ought to be believed, if, by an infallible test, it can be shown, that it is impossible to be any thing but the truth. That evidence to convict men of belonging to dacoity gangs is to be obtained in any other way than through the information of men who were themselves dacoits, no one will, I presume, be bold enough to argue. If we can procure the certain discovery of truth from the approvers, it is as unreasonable to require other evidence, as it is to expect to procure it.

In the case of the approvers there must be the most unerring corroboration and evidence of truth, or the evidence is worth nothing. But it is the peculiar merit of the approver-system that while each approver corroborates himself and corroborates his fellow approver, while they both adhere to the truth, the reverse is the result, if their testimony is artificial. In this

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certainty that deceit and counterfeit are sure to be exposed, lies the strength of the approver-system. Twice is each approver examined, once when he first confesses, and again when he is required to appear before the sessions. The interval between the two examinations is sometimes long, his confession is in the mean time a sealed book, and if in twenty or thirty or forty dacoities committed in the company of various persons aggregating hundreds, he is able in his second examination, to adhere nearly to the names he originally gave to the dacoity commissioner of his companions on each occasion, nothing will persuade me that he could do this, except the assurance that he and the parties named were fellow-companions in the particular act or acts, in regard to which there is this agreement. If it had been mere conjecture which supplied the names, the first examination would be sure to expose it, for it is not within the power of any man to assign at random fifteen or twenty names to this incident, and fifteen or twenty to that, and so on with a dozen incidents, and to recollect as often as he may be subsequently called upon to do, the names of the particular fifteen or twenty in each separate incident. It is not impossible, I grant, that an approver owing another man a grudge might bear in recollection the cases in which he denounced him to the dacoity commissioner, so as to be able to name him again in the same cases to the sessions judge; but this will always be an exceptional and a rare case, and the party accused would generally be able, were it not certain to come out in other ways, to prove that the witness has been influenced by evil motives in accusing him.

But if one approver's evidence is so good, what ought to be thought of it when it is confirmed by a second of the same sort. Let it be that the first approver may have denounced from guess, let him have been actuated by malice, let his powers of recollection be more than human, by what fortuitous chance shall he be confirmed by a subsequent deponent, unswayed by the same motives, and uninformed of the previous testimony? Let it be that the approvers have had opportunities of communicating with each other and that they shall mutually agree to accuse particular persons, I have such little faith in the retentive powers of human memory that I pronounce it impossible for two men to be consistent in their evidence, when the occurrences are numerous and the transactors still more so.

But let it be that there is still fear that innocent men may be unjustly denounced by two men acting in agreement, this, and every other objection must surely vanish, when those denunciations are confirmed by a completely independent third witness.

In the present case there is *that* unexceptionable evidence.

Mahdub, witness No. 3, gave his confession to the dacoity Commissioner between the 6th and the 23rd January, 1854.

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Nobin witness No. 1, gave his between the 25th April and 6th May, 1854. Dabee, witness No. 2, gave his between the 9th and the 25th November, 1854, beginning the very day he arrived, and Nemaie Nikaree gave his between the 5th and the 21st October, 1853.

Without entering into the consideration of those cases, in which there is only the evidence of one or of two approvers, I shall confine my remarks to those in which there are not less than three. These are, the Hatgacha dacoity, the Shumragoree dacoity and the Dapara dacoity. If these are proved, the charge is proved, and if these are not proved, the rest, where there is less evidence, are not likely to be deemed sufficient for conviction. When Nobeen, witness No. 1, and Mahdub, witness No. 3, were in custody, Dabee Ghose, witness No. 2, had not been apprehended. He was not apprehended till some months after the other two witnesses had revealed the whole history of their lives to the dacoity commissioner. The day after he was seized at Santipore by the local police, he arrived at the dacoity commissioner's office, and on the same day he began a confession which was completed in the next nine consecutive days. He had, it is plain, no communication with witnesses Nos. 1 and 3, Nobeen and Mahdub, and yet in the three above specified dacoities he names the same men whom they had each previously done. This agreement it is not possible to account for, except, as I have labored to show, we suppose things not possible, and as I hold that the evidence, obtained as it has been, cannot but be true, I consider the charge fully made out against the three prisoners, who are the subject of the present reference.

The defence of prisoner, No. 29, Cheeroo Chung is, that he was a chowkeedar in Neasurraie, found Madhub and Nemaie drunk and making an uproar in a prostitute's house in the bazar, and took them to the fareedar. In revenge for this they have named him and prevailed upon Nobeen and Dabee, with whom prisoner has no cause of quarrel, to join in the accusation.

The defence of prisoner No. 30, Shaybuck Chung *alias* Shayba Chung Sirkar is, that Madhub owes him a grudge on account of some *byguns* the prisoner brought for him, and that he has prevailed upon the other witnesses to join in the false accusation against him.

The defence of prisoner, No. 31, Bhoobun Sirdar Chung is that in an attack by dacoits on the house of Bhoobun Mojumdar, this prisoner's brother Tarun Sirdar, cut down one of the dacoits that this man was one of Madhub's and the other approver's gang, and that they vowed they would some day be avenged on Tarun and this prisoner, his brother, and that they have now fulfilled their purpose on this occasion.

The prisoners named witnesses to character, and they all speak

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well for them on that head, but the witnesses are of the very lowest order, and their testimony to character is not worth much, under any circumstances, while the proof that the men whose characters they vouch for, are dacoits, and have been long known to be such, renders it worth nothing at all.

I would convict the prisoners of having belonged to a gang of dacoits and sentence them to transportation beyond sea for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin,) A careful comparison of the statements made to the dacoity commissioner by the approvers at the time of their apprehension, especially respecting the dacoities at Depara and Shumroogureeah; with what they testified in the sessions court, evinces no discrepancies of any importance. And on comparing the defences set up by the prisoners before the dacoity commissioner and at sessions, it appears that before the former they contented themselves with a mere denial of the charge. At sessions, Cheeroo Chung accused Madhub with having falsely charged him, because he, Cheeroo, when a chowkeedar, had seized Madhub and others in a drunken riot at the house of a prostitute and taken him and them to the pharee: and Bhoobun declared the cause of the accusation against him, was his brother, Tarun, having cut down a dacoit of the approver's gang in a dacoity at the house of one Bhoobun majumdar. These two alleged facts, if true, could have been easily ascertained by the dacoity commissioner, if stated in their defence before him: and would then most assuredly have been declared. The conclusion therefore is, that they are both false, Shaybuck simply denied the charge before the dacoity commissioner and stated at the sessions the reason of his being accused was a quarrel with Madhub about some brinjals, too ridiculous for further notice.

In addition to the two above grounds for conviction, we observe on perusal of the searching questions put to the prisoners by the dacoity commissioner, that both of the prisoners, as well as Shewuk Chung, prisoner No. 3, admitted that they were near relatives of several notorious dacoits who had been convicted, and had themselves been repeatedly taken up on suspicion for dacoity, and as bad characters. We therefore convict all three prisoners of the charge of belonging to gangs of dacoits, and sentence them to transportation for life.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS, *Judges.*

GOVERNMENT

versus

SEWDIAL SINGH (No. 1,) AUDIT SINGH (No. 2,) KALLEECHURN ROY (No. 3,) BYJNATH ROY (No. 4,) BULDAO DOOBEE (No. 5,) AUDIT GWALLA, (No. 6,) BHOOKHUN ROY (No. 7,) AND PURREAG DOOBEE (No. 8.)

Shahabad.

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Case of SEWDIAL SINGH and others.

Convicted on the 3rd and 4th counts, and each prisoner sentenced to five years' imprisonment.

Held, that the prisoners cannot be regarded as legally responsible for the murder charged in the first count.

CRIME CHARGED.—1st count, murder in having been engaged in a riot in which Pursun Bharte was killed and nine others wounded; 2nd count, riot; 3rd count, opposing the magistrate in the lawful execution of his duty; 4th count, exciting the prisoners to commit a riot; 5th count, exciting prisoners to oppose the magistrate in the lawful execution of his duty; 6th count, threatening the burkundazes whilst in the lawful execution of their duty. Nos. 1, 2, 3, 4, 5 and 8, on the first counts, and Nos. 6 and 7, on the 6th count.

Committing Officer.—Mr. F. B. Drummond, magistrate of Shahabad.

Tried before Mr. R. J. Loughnan, officiating sessions judge of Shahabad, on the 15th September, 1855.

Remarks by the officiating sessions judge—I dissent from the *futwa* which acquits prisoners Nos. 1 to 5 and 8. It appears from the testimony of the witnesses Nos 2 3, 4, 5, 11, 12 and 15, jail officers and convicts, that the magistrate accompanied by the civil assistant surgeon, the darogah and others having explained to the convicts in the jail as they were seated in their messes for the evening meal, the order that they were to be fed on leaf platters and drink out of earthen vessels, called several prisoners individually (among whom according to some of them was prisoner No. 1,) and told them to take their food. They were contumacious and refused, and the magistrate ordered the turnkeys to remove them and lock them up in their wards. While the turnkey was removing Gurboo, Hunoman, Buksh Singh and some say prisoner No 1., the prisoners Nos. 1 to 5, and 8, exclaimed that their lives were now not worth preserving as their caste would go if they took food or drink, and all the Hindoo convicts then in the jail to the number of more than two hundred, rose up and approached the magistrate's party in a riotous manner, using threats and violence, that is, throwing earthen pots, pieces of fire-wood and whatever they could find at the magistrate and his party. The latter retreated to the gate of the jail and when the convicts began to press closely upon

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them, advancing very near to the gate the sepoys fired and they fell back.

Witness No. 4 says, the prisoners above enumerated commenced the riot in which the other convicts joined. No. 5, that they incited the other convicts to violence whereupon the riot commenced.

Several other eye-witnesses gave the same account of the origin and progress of the riot, without singling out the prisoners as ringleaders or instigators or even naming them as present, such are Nos. 7, 8, 9 and 10.

There is a confliction in the evidence as to the presence of prisoner No. 1, when the riot broke out. Witnesses Nos. 7 and 8, although relating Sewdial's contumacious refusal to eat, until the brass utensils should be restored, say that he was shut up before the riot actually commenced.

The evidence of witness No 9, and that of the civil assistant surgeon and the native doctor leave no doubt that Pursun Bharte and nine other convicts were wounded by the discharge of musketry, on this occasion, and that Pursun Bharte died of his wound The latter fact is corroborated by the evidence of the convicts who carried away his body.

The evidence of witnesses Nos. 9, 10, 14 and 15, as to the prominent part taken by the prisoners Nos. 1 to 5, and 8, after the magistrate had retired, breaking the padlocks, inviting the other convicts to resist the magistrate's orders and to assault him or any other officer who might attempt to enter the jail, to refuse to give up the wounded men, seems to point them out as among the instigators and ringleaders of the outbreak. The unanimity of the Hindoo convicts in refusing their food when offered to them in leaf-platters, to which no Hindoo has any objection, and rising upon the magistrate on his attempt to enforce the order, gives rise to a suspicion that they had been previously incited to, and had come into the jail resolved on the pursuance of such a line of conduct, because although a Hindoo who uses an earthen drinking vessel on a journey, generally breaks it on leaving his camping ground, lest it should be desecrated by a person of another caste using it, yet it does not clearly appear why it should have simultaneously struck all as inevitable, that their drinking-vessels would be desecrated, and how, all not having been previously incited to it should have bethought themselves of the same mode of resisting the order.

The only prisoner who has made any thing like an effectual defence is Sewdial, No. 1. He cited the darogah and five of his fellow-convicts to prove, and the latter declares that he was shut up with them before the riot actually commenced. This though contradicted by the testimony of the darogah accords with what the magistrate has stated in his remarks in the Calendar.

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Giving the prisoner, however, the benefit of this testimony, it does not disprove his instigation of resistance to lawful authority on the part of the other prisoners, either before the riot or after its occurrence.

I consider charge No. 4, of inciting the prisoners to commit a riot, and charge No. 5, of inciting the prisoners to oppose the magistrate in the lawful execution of his duty, substantiated by the evidence for the prosecution against this prisoner.

I also consider the above charges and so much of count No. 1, as charges the prisoners with having engaged in a riot in which Pursun Bharte was killed and nine others wounded, and charge No. 3, of opposing the magistrate in the lawful execution of his duty substantiated against prisoners Nos. 2, 3, 4, 5, and 8.

Considering the fatal consequences of the outbreak, which must have been foreseen as likely to ensue by the prisoners and the necessity of maintaining discipline and obedience to the authority of the magistrate in jails, I cannot but think that a severe example is necessary in this case and would recommend a sentence in the case of No. 1, of five years, in that of Nos. 2, 3, 4, 5, and 8, of seven years' imprisonment to be passed on the prisoners.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The evidence of the witnesses extends over sometime, referring to the events in the jail as far as the prisoners are connected with them both before and after the magistrate had retired. From it, we find sufficient proof of the culpability of all the prisoners, concerning whom this reference has been made. There is no doubt they were actively engaged in opposing the magistrate and his officers, and incited the other prisoners in their opposition to his orders We would convict them of the 3rd and 4th counts, and sentence them all to five years' imprisonment. The Court observe that the prisoners are charged in the 1st count with "murder, in having been engaged in a riot in which Pursun Bharte was killed and nine others wounded." These casualties were caused by the *sepahis* firing on the convicts to check their attack upon the magistrate and jail authorities, and as such, the homicide and wounding were justifiable, but though necessarily arising from the acts of the prisoners, which rendered such offensive measures necessary, the prisoners themselves cannot be held legally responsible for the result.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND BUNGSHEEBUDDUN NOBICAREE

versus

HURI BUSTOMI (No. 4.) SHAMDASS BYRAGEE, (No. 5,) PREMDASS BYRAGEE (No. 6,) NUDIARCHAND DAS, (No. 7.) BUDDUNCHUNDER SHOME, (No. 8,) TARACHAND HAJRAH, (No. 9,) HULODHUR DEY, (No. 10,) GOSIMDAS KOTAL, (No. 11.)

East Burdwan.

1855.

October 12.

Case of BUDDUNCHUNDER SHOME and others.

The evidence being considered insufficient for conviction, the prisoners were acquitted.

CRIME CHARGED.—Wilful murder of Gosimdas Udhikaree.

Committing Officer.—Mr. H. B Lawford, officiating magistrate of East Burdwan.

Tried before Mr. J. H. Young, sessions judge of East Burdwan, on the 2d August, 1855.

Remarks by the sessions judge.—From the evidence brought forward in this case, it would seem that a criminal intimacy had existed between the deceased and the prisoner No. 4, by name Huri Bustomi for a period of eight or nine years, but that latterly, prisoner No 9, had, against her wishes, but with the consent of her brothers, prisoners Nos. 5, 6 and 7, formed a similar intimacy with Huri Bustomi (No. 4.) On the night of the 29th of May last, when the deceased went to visit Huri Bustomi (No. 4,) he was seized by the prisoners (and some others who have not yet been apprehended) and tortured in a way to prevent his interfering in future with the wishes of prisoner No. 9. It is possible that the intention of the prisoners, did not go beyond this in the first instance. The result was, however, that the deceased died under the ill-treatment to which he was subjected. The prisoners then took the body out of their house in the dead of the night and were proceeding to dispose of it, when they were met by the prosecutor, the brother of the deceased who finding he did not return to his home as usual, went to search for him at the house at which he knew he was in the habit of visiting. Upon this, the prisoners threw down the body and fled. The neighbours were roused by the cries of the prosecutor and the whole thing was discovered.

The defence set up by the prisoners was, that the deceased was always a sick man, that he suffered very much from a complaint of the chest and that he died a natural death. They brought a number of witnesses to prove this, but I have no doubt that it was not the case. Some neglect on the part of the local police has prevented its being proved by the evidence of the medical officer that the man died by violence, but if he had died, as stated by the prisoners, of a chest-complaint, how

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came it that the body was mutilated? that is, the testicles crushed and the lower part of the body bruised.

I tried the case with the assistance of the law officer, and I concurred with him in acquitting the prisoner No. 4, and finding all the rest guilty of culpable homicide. There is no evidence whatever to implicate the prisoner No. 4, in fact, I think, it would have made the case more complete if she had been made a witness instead of a prisoner. In accordance with the opinion of the law officer, I have sentenced prisoners Nos. 5, 6 and 7, to seven years' imprisonment each, and prisoner No. 11, to three years with labor in irons. The guilt and complicity of the prisoners Nos. 8, 9 and 10, however, seem to me of a graver character than that of the prisoners above alluded to, and the punishment to which I can sentence them for the crime of culpable homicide seems, to me, quite inadequate to their crime, I, therefore, forward the papers of the case for the consideration and orders of the Court of Nizamut Adawlut with my recommendation, that the prisoners Nos. 8, 9 and 10, be sentenced to fourteen (14) years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin) It is impossible to come to any certain conclusion upon this case, upon the evidence on the record, which is so full of contradictions and discrepancies that it cannot be relied upon.

The two eye-witnesses to the murder, viz., Kallee Agoorin and Drip Mye, are two women, the former of whom before the magistrate said, that she was eighty and before the sessions judge that she was 70 years of age, while the latter has given her age at 50 and 40 or 12 before these authorities respectively. The former says that she recognised prisoners Nos. 8 and 9, with two others, not apprehended, whereas the latter states that she could recognize no one, except the deceased, but heard from the former that she had recognised Nos. 8, 9 and 10, with those two others. Both, it is to be noted, say that they saw from the same spot. It is highly improbable that the elder of the females had the better sight. Besides, there is discrepancy as to the manner of their being disturbed by the occurrence, Kalee Agoorin saying she was called by Drip Mye. Drip Mye, on the other hand, stating before the magistrate that Kalee Agoorin called her and before the sessions judge, that they became aware of what was going on, when they had left the house to answer a call of nature.

The evidence of Bungseebudun Adhikaree is contradictory of the above evidence, for before the thannah mohurrir he said the deed was done within Sham Doss's house, and before him and the sessions judge he said the corpse was being brought out of it.

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The sessions judge very properly says that Huri Bustomi No. 4, should have been made a witness.

The reason the mohurrir did not make her one, because she was privy to the murder without reporting it, was quite inadequate; for by her own account, she at once told it to Gooroo Doss, and the magistrate seeing the insufficient reason assigned should have taken her deposition and not her answer. Her statements cannot now be referred to as evidence, but to show the discrepancies between them and that of Gooroo Doss Byragee, it may be noted that Gooroo Doss does not agree with her as to the disposal of the body after its removal from the *Chundee Mundub*. Being of opinion that the evidence is utterly untrustworthy, we acquit all the prisoners and direct their release.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MUNOGE DOSADH (No. 1,) DEENA KULWAR (No. 2,) TRIBHOOWUN SINGH (No. 3,) AND MAHADEO-BUKSH SINGH (No. 4.)

Tirhoot.
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Case of MUNOGE DOSADH and others.

Tried on charge of riot and insurrection in jail. The prisoners having been already punished for the offence by the magistate, it was ruled that no further, and therefore *cumulative* punishment could be awarded.

CRIME CHARGED.—1st count, assaulting the jail darogah in the execution of his duty; 2nd count, riot and insurrection for the purpose of intimidating the authorities, and preventing them from carrying out orders given by competent authority.

Committing Officer.—Mr. A. E. Russell, magistrate of Tirhoot.

Tried before the Honorable R. Forbes, sessions judge of Tirhoot, on the 25th July, 1855.

Remarks by the sessions judge.—The occurrence which led to this trial was the carrying out an order of the inspector of prisons, depriving convicts of their brass *lotahs*, and directing the substitution of earthen drinking cups, in resisting which the prisoners in this jail created a riotous disturbance on the 9th May last, during which some of them assaulted the jail darogah in the execution of his duty, which is the 1st charge in the calendar, and on the 11th idem, the magistrate severely flogged, heavily ironed and solitarily confined several of the convicts, and among that number were the prisoners Nos. 1, 2, 3 and 4, (all *foujdary* prisoners,) for breach of jail-discipline on the first mentioned date. With those convicts were committed two *dewanny* prisoners Nos. 5 and 6, who, however, on the concurring opinion of the law officer, and my own, of their guilt not being established, have been acquitted and released.

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The four referred prisoners pleading *not guilty* urged that they had undergone corporal punishment and solitary confinement, and the *futwa* of the law officer finding all four guilty, declares them liable to discretionary punishment by *tazeer*.

Concurring with the Mooftee that the charge is proved against the prisoners by the evidence of the eye-witnesses* adduced for the prosecution, I yet doubt whether, for the following reasons, they can be legally subjected to further punishment. In addition to the prisoners themselves pleading in their defence that they have been punished by stripes, the magistrate has thus recorded in the abstract grounds of commitment in the calendar, "I have already punished them (i. e. the prisoners) and others with stripes for breach of jail-discipline in refusing to obey the orders of the authorities, but I do not consider this punishment sufficient for them, and it having been proved that these men were leading in the assault upon the jailor when employed on his duty, this being a distinct offence to that for which they were formerly punished, &c." It is true that the prisoners do not appear from the proceedings of the magistrate ordering the corporal punishment to have been flogged particularly for the specific offence of assaulting the darogah, nor before being flogged were their defences taken on that charge, yet as the riotous disturbance during which the assault on the jailor took place and of which it was only a part, was one and the same offence, all having occurred on the same day and the proceedings in the corporal punishment case (herewith sent) shews that the prisoners were in that case charged with what has again been made the 2nd count, in this commitment viz., riot and insurrection, I am of opinion that agreeably to the precedent in the case of Government *versus* Bisheshur and others, page 58, Volume VI. of Nizamut Adawlut Reports for 1845, the prisoner must be acquitted and released. In that trial it was held that the magistrate having punished certain prisoners (also convicts in jail) for breach of jail-discipline previous to commitment for trial, (and that too on much heavier charges than those laid in this indictment) any further punishment would be cumulative and therefore, illegal. Adverting, however, to the law officer's convicting *futwa*, from the propriety of which, as borne out by the evidence adduced, I do not dissent, I refer the case for the final orders of the superior Court.

* No. 1, Sheikh Hyderbuksh, jail darogah.
,, 2, Muhesh Loll Naib ditto.
,, 3, Sheikh Hyderbuksh, nazir foujdary.
4, Shere Allee, jail burkundaz.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) With reference to the remarks of the sessions judge, and adverting to the precedent quoted by him, Government *versus* Bisheshur and others, we concur with him

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in opinion that no further punishment can be awaorded against the prisoners, they having already been punished by the magistrate with stripes and solitary confinement for the same offence of which they are now convicted. It is the opinion of the Court that the magistrate acted with very little discretion, in subjecting these convicts to a punishment so inadequate, and thereby defeating the ends of justice and allowing them to escape the full penalty of their crime.

PRESENT:
SIR R. BARLOW, BART., Judge.

GOVERNMENT
versus
BISHTO GHOSE.

Hooghly. 1855. October 13. Case of BISHTO GHOSE.

Convicted of having belonged to a gang of dacoits and sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr J. R. Ward, dacoity commissioner of Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 5th September, 1855.

Remarks by the additional sessions judge.—This is the man who was honored as the chosen subject of an illustration by a member of the Legislative Council of India in one of its recent sittings, vide Mr Currie's motion for a Select Committee to consider the subject of cattle-trespass.

The man's history is indeed a most remarkable one, and if any doubt did ever exist in any quarter as to the need and the utility of an extraordinary agency to cope with, and suppress the crime of, dacoity, a perusal of the prisoner's adventures would, I think, dispel such doubt from the mind of every one who would read the narrative with attention and impartiality. It will hardly be believed that any one could commit half a hundred dacoities, and still leave so little tangible proof of his own guilt, that were it not that the prisoner criminates himself there is no other sufficient proof to convict him! Being apprehended, he very soon volunteered to give the dacoity commissioner a history of his life. Interesting as that history is, it may be told in a few words. From tending cattle, he became a bold and practised club-man. Expert in the use of his favorite weapon, and made daring by the frequent use of it, he disdained the humble occupation of a cow-herd, and readily listened to the first overtures made to him to exchange it for the eventful easier and the more lucrative life of a dacoit. From

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being a member he soon became the head of a gang. He recollects the particulars of forty-seven different acts of dacoity by land and water, and there is little doubt that he has forgotten twice that number.

An approver examined, at the trial, testifies that the prisoner accompanied him in five different dacoities, viz. a river-dacoity below Kaleepoor, a river-dacoity below Peerpoor, a dacoity in the village of Andooba, a dacoity in the village of Tagurria, and a dacoity in the village of Balipokoreah.

These dacoities are among the forty-seven particularized by the prisoner himself in his confession to the dacoity-commissioner.

The confession itself has been proved by the witnesses in whose presence it was taken down and recorded.

The prisoner admits his confession, pleads guilty to the charge, and declines making any defence.

I would convict the prisoner on the testimony of the approvers, as well as on his own proved voluntary confession, of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present Sir R. Barlow, Bart.) The Court sentence the prisoner, Bishto Ghose, to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

TRIAL NO. 5.

GOVERNMENT AND DAMOOLLAH MIRDAH

versus

RONYE (No. 17,) SEBUK DASS, (No. 18,) MAL GAZEE, (No. 19,) FUKEER MOHAMED, (No. 20,) BABUROOLLAH, (No. 21,) JAMA KHAN, (No. 22.)

TRIAL NO. 6.

GOVERNMENT AND SUFFEROODDEEN KHOONKAR

versus

SEBUK DASS, (No. 18,) MAL GAZEE, (No. 19,) FUKEER MOHAMED, (No. 20,) JAMA KHAN, (No. 22.)

TRIAL NO. 7.

GOVERNMENT AND RAMKISHORE GOOH

versus

SEBUK DASS, (No. 18,) BABUROOLLAH, (No. 21,) JAMA KHAN, (No. 22.)

TRIAL NO. 9.

GOVERNMENT AND TILUK SINGH

versus

SEBUK DASS, (No. 18,) MAL GAZEE, (No. 19,) FUKEER MOHAMED, (No. 20,) BABUROOLLAH, (No. 21,) JAMA KHAN, (No. 22.)

TRIAL NO. 10.

GOVERNMENT AND MEAH KHAN

versus

SEBUK DASS, (No. 18,) FUKEER MOHAMED, (No. 20,) BABUROOLLAH, (No. 21.)

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In cases Nos. 5, 6, 9 and 10, the prisoners were acquitted on the charge of arson on the grounds of the insufficiency of the evidence and delay in lodging complaints against them. In case No. 7, the prisoners were convicted of riot and wounding, and sentenced to imprisonment for three years, with labor commutable to fine.

CRIME CHARGED.—*Trial No.* 5.—1st count, arson; 2d count, riot with plunder of property to the value of Co.'s Rs. 29-9.

Trial No. 6.—1st count, arson; 2d count, riot with plunder of property to the value of Co.'s Rs. 428-6.

Trial No. 7.—Riot attended with the wounding of Atearam, Kebul Chung Chowkeedar, Daem Ally, Sukkoo Boodhye, Poorno Koch, Futtick, Fukeer Mohamed, and Roop Singh.

Trial No. 9.—1st count, arson; 2d count, riot with plunder of property to the value of Co.'s Rs. 2,030-13.

Trial No. 10.—1st count, arson; 2d count, riot with plunder of property to the value of Co.'s Rs. 1,077-1.

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CRIME ESTABLISHED.—*Trial No.* 5.—Arson and riot with plunder of property to the value of Co.'s Rs. 29-9.

Trial No. 6.—Arson and riot with plunder of property to the value of Co.'s Rs. 428-6.

Trial No. 7.—Riot attended with the wounding of Atearam and others.

Trial No. 9—Arson and riot with plunder of property to the value of Co.'s Rs. 2,030-13.

Trial No. 10.—Arson and riot with plunder of property to the value of Co.'s Rs. 1,077-1.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B Kemp, sessions judge of Backergunge, on the 29th March, 1855.

Remarks by the sessions judge.—Trial No 5.—The circumstances connected with this case are particularized in my predecessor's letter of reference to the superior Court, No. 17, of the 16th September, 1851, paragraphs 28 to 42, a brief sketch of which is as follows.

"The cutcherry set fire to, belongs to Meeterjit Singh, and the burning of it was done apparently from pure malice.'

"The prosecutor did not give a written complaint till five days after the affair, but the Bhugeerutpore pharee mohurrer saw the building in flames, entered the case in his Razeenameha, which was transmitted to the magistrate the same day, and both he and the thannah darogah reported it fully on the 24th February (the day after the arson.) Thus though there was some delay before the prosecutor filed his complaint, there is undoubted proof that the event did actually take place and that it was noted in the public records of the thannah.

Witness No. 2, Ufzul Khan.
" " 3, Kotabudin.
" " 4, Buxoollah.
" " 5, Ameer Khan, and others.

"Numerous witnesses saw the prisoners present, when the cutcherry was fired. The comparative statement shows a great mass of consistent evidence and the charge is fully established against each prisoner"

The sudder Court in their letter No. 137, dated 21st February 1855, instructed the sessions judge himself to dispose of the case as regards the present prisoners.

I have gone through the whole of the evidence recorded on this trial by my predecessor, and I am fully satisfied that it clearly establishes the guilt of the prisoners.

I agree with the *futwa* and sentence the prisoners as shown, being the sentence recommended by Mr. Steer.

Trial No. 6.—The particulars of this case have been given in

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paragraphs 43 to 54, of the letter of reference alluded to in the preceding trial which are briefly as follows.

"The arson, charged against the prisoners, occurred on the 25th February, the day after the event which gave occasion to the trial, immediately preceding. The houses destroyed were nine in number belonging to one Kulleem who is a joint-ryot of both the ten and the six-anna zemindar. His only offence seems to have been, that, obedient to the command of the magistrate, he furnished the three darogahs on the day of their discomfiture, with a few men to aid in the capture of Guggun and his rabble. Besides burning down the premises of Kulleem the prosecutor's master, the rioters fired also the houses of Kulleem's ryots living round about his own residence and then they went and did the same to some other ryots living in a separate but adjoining locality. The prisoners are, however, only charged with the affair connected with Kulleem's house.

"The Bhuggeerutpore pharee mohurrir saw Guggun's gang engaged in the act, but he was too alarmed to go near enough to distinguish the parties engaged in it. He reported the event the same day to the magistrate.

Witness No 1, Edrok.
2, Abbass.
3, Nujoo.
4, Anooram.
5, Kabel.
6, Bhushye.
7, Buderoodin and others.

"The witnesses examined at the trial are chiefly the persons whose houses were set fire to at the same time. Their depositions, as the comparative statement shows, prove the charge against prisoners, No. 9, Guggun, No. 18, Sebuck Dass, No. 19, Mal Gazee, No. 20, Fukeer Mahomed, and No. 22, Jama Khan, but they do not prove it against prisoners No. 17, Ronye and No. 21, Baburoollah."

The same instructions were issued from the superior Court as are noted in the above trial.

I coincide with the *futwa* in considering the evidence for the prosecution sufficient for the conviction of the prisoners and therefore sentence them as shown.

Trial No. 7.—This case was fully detailed in paragraphs 56 to 63, of my predecessor's letter referred to in the above trials and the following is a brief description of it.

"The charge is not attended with wounding. At about 11 o'clock in the day of the 7th March, Guggun and Mohun appeared with guns in their hands and accompanied with a large body of men to demand from the prosecutor the newly established black mail denominated Luca Sellamee. A proclamation had been then published in the Mofussil for Guggun's apprehension and though it does not distinctly appear in the evidence, I think it may be gathered from the facts of the case, that there was some intention on the part of the villagers to

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resist the depredation of Guggun and his lawless band. Without some such apprehension, I cannot credit that Guggun and Mohun would have made use of their fire-arms. However, whatever may have been the occasion, they are represented to have fired into the few men who stood at the entrance of the prosecutor's house to oppose or to remonstrate against Guggun's violence. No sooner were the guns pointed, then the men, aimed at, took to flight, several were hit with small shots. Atearam was wounded with a *soolfee* and Daem Ally appears to have been so terrified at the report of the guns, and at their being pointed at him, that he fell down as if he had been shot dead. Thinking that he was dead, the rioters took* up his body and made off as fast as they could. The man Daem Ally was afterwards rescued† by the payment of a ransom of 20 Rupees to a relative of Guggun's, in whose keeping he was. On the appearance of this man, at the sudder station the medical officer‡ failed to see any marks of shot on his person. Indeed it was plain that he had not been touched, but the poor man had become a cripple from paralysis having completely lost the use of his right side. On asking the medical officer, after describing the manner in which Daem Ally is said to have been rendered insensible, whether sudden fright could have induced the fit from the effects of which the man is now a cripple, the answer was, that such a thing was quite possible.

* Witness No 16, Roop Khan.
† Witness No. 17, Lal Mahomed.
,, ,, 18, Neamutullah.
‡ Witness No. 15, Dr. M. Scanlan.

"The evidence of the wounded men and that of numerous eye-witnesses prove the facts as related above. It establishes the guilt of prisoner No. 9, Guggun. No. 18, Sebuck Dass, No. 21, Baburoollah and No. 22, Jama Khan, while it fails to do so in respect to prisoner No. 20, Fukeer Mahomed."

Witness No. 1, Kabul Kishto Chowkeedar.
,, No. 3, Poorno Kock.
,, ,, 4, Phuttik Chung.
,, ,, 5, Boodhy & others.

The case was returned by the Court with the same orders as are stated in the above trials.

After going through the whole of the evidence, my opinion coincides with that of the law officer in considering the prisoners guilty. They are sentenced as shown.

Trial No. 9.—The particulars of this case are stated in Mr. Steer's letter to the Court No. 1, dated 6th January, 1855, paras. 2 to 6 which briefly are as follows.

"The affair occurred on the 25th February, 1854, in the same village, on the same day, at the same time, and under precisely similar circumstances as those recorded in trial No. 8; Guggun Meah and his gang had indeed fired and plundered the whole village, and the prosecutors in trial No. 8, for August 1854, and

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Nos. 2, and 3, for January, 1855, were different persons living in the village. The affair then may be regarded as one of which every different ryot's house have plundered and fired, are so many parts.'

"As observed in my notes to trial No. 8, paragraph 44, the Bhugeerutpore mohurrir saw the village in flames and reported the event the same day to the magistrate.

"The depositions of numerous witnesses prove that all the prisoners made over for trial in this calendar were present at, and concerned in, the arson and plunder."

The sessions judge was directed to dispose of the prisoners in the Court's letter above alluded to.

I have taken into consideration the evidence recorded on this trial by my predecessor, and I concur with the futwa in convicting the prisoners. They are sentenced as shown.

Trial No. 10. Paragraphs 8 to 11 of the letter No. 1, made mention of in the above trial, contain a detail of the facts of this case which are briefly as follows.

"The remarks in the previous case are applicable here.

"The charges are proved by many eye-witnesses and the Bhugeerutpore mohurrir saw the village, in which the prosecutor's house was, in flames, and made a report of the fact to the magistrate the same day."

The case was returned by the sudder Court with instructions that the sessions judge himself should dispose of the present prisoners.

I have taken into consideration the whole of the evidence recorded on this trial, which I consider fully adequate to establish the guilt of the prisoners.

In concurrence, therefore, with the futwa of the law officer I have sentenced the prisoners as follows.

Sentence passed by the lower court.—No. 17, to be imprisoned in trial No. 5, for four years without irons and to pay a fine of 25 rupees, on, or before the 28th April, 1855, or in default of payment to labor until the fine be paid or the term of his sentence expire. No. 18, to a consolidated sentence of imprisonment for five years with labor and irons in trials Nos. 5, 6, 7, 9 and 10. No. 19, to a consolidated sentence of imprisonment in trials Nos. 5, 6 and 9, for four years, without irons, and to pay a fine of 100 rupees, on or before the 28th April, 1855, or in default of payment to labor until the fine be paid or the term of his sentence expire. No. 20, to a consolidated sentence of imprisonment in trials Nos. 5, 6, 9 and 10, for four years, without irons, and to pay a fine of 100 rupees, on or before the 28th April, 1855, or in default of payment to labor until the fine be paid or the term of his sentence expire. No. 21, to a consolidated sentence of imprisonment in trials Nos. 5, 7, 9 and 10, for five years with labor and irons, and No.

22, to a consolidated sentence of imprisonment in trials Nos. 5, 6, 7 and 9, for five years with labor and irons.

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Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) These prisoners have appealed from sentences passed by the sessions judge, after the cases had been returned from this Court for that purpose. Adverting to the remarks of this Court, in the cases of arson and riot, and those of the sessions judge who finally disposed of them by convicting the prisoners of the crimes charged, we are of opinion that the evidence is not sufficient to prove their guilt. Their identification by the witnesses is rendered doubtful by the delay which took place in lodging complaints and the dilatoriness with which the prisoners are named as having participated in the outrage. As far as the prisoners are connected with these cases, we consider them entitled to an acquittal: but seeing no reason to doubt the trustworthiness or sufficiency of the evidence against the prisoners Sebuck Dass, Baburoolla and Jama Khan in the case No. 7, for March, 1855, wherein they have been convicted of riot attended with the wounding of Atearam and others, we uphold that conviction, and sentence them all to three years' imprisonment with labor commutable to a fine of 30 Rupees each, payable within fifteen days.

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Case of FYZOODDEEN alias POZOO and others.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

FYZOODDEEN ALIAS POZOO (No. 1,) MAHOMED ASHGUR MOONSHEE (No. 2,) AND POTOO SICKDAR (No. 3.)

Prisoner No. 1, convicted on the 2nd count, on the ground that the evidence on his behalf was untrust-worthy and probably prepared during the long interval which occurred before the prisoners' apprehension. Sentenced to 14 years' imprisonment with labor and irons in banishment.

CRIME CHARGED.—1st count, No. 1, wilful murder of Sheikh Zakeer; 2nd count, Nos. 1, 2 and 3, riotously attacking the premises of Boodhye and wounding Sheikh Zakeer from the effects of which he died; 3rd count, being accomplices in the said riotous assault in which Zakeer was mortally wounded.

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 7th September, 1855.

Remarks by the sessions judge—For particulars of the charge against the prisoner, I beg to refer the Court to page 597, Nizamut Reports for May last, where the case of two prisoners convicted of the same riotous attack will be found.

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Several witnesses declared, from the first at the thannah, before the magistrate and in this court, on the former and present occasion, that the prisoner, with others not referred, had taken part in the disturbance, and that Zakeer had been killed by Pozoo, prisoner No. 1.

The prisoner pleaded *not guilty* and an *alibi*. He called eighteen witnesses.

The law officer convicted the prisoner on the 1st count, considering him liable to *tazeer*.

I do not credit the witnesses for the defence. They attempt to prove that the prisoner was at the time under restraint by Doodoo Meah, and the prisoner himself refers to a petition to that effect, presented by his brother Oozeer (formerly convicted.) No proof was however given of the truth of this complaint, though now so many witnesses are brought forward to attest it. Several of these witnesses are relations of the murdered man, and deny that any disturbance, such as charged, took place, but they cannot account for the death of Zakeer. The Court will observe how almost all the witnesses profess themselves followers of Shurreeutoollah, Doodoo Meah's father, thus avoiding recognition of the latter as head of the Ferazees. The quarrel is a religious one, and almost any amount of evidence may be procured by the friends of either party.

I do not quite agree with the *futwa*, as I consider the prisoner guilty of the crime charged in the second count, there having been no malice prepense to constitute murder.

To prevent a recurrence of these religious quarrels, I would sentence the prisoner to ten years' imprisonment with labor in banishment. To imprison him in the district jail would be useless, as he would be treated as a martyr by his party.

Two other prisoners convicted have been sentenced.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The witnesses, who deposed to the fact of Zakeer having been mortally wounded by the prisoner, Fyzooddeen, now before us, have given evidence to the same effect when previously examined at the trial of his accomplices. We concur with the sessions judge in discrediting the evidence cited for the defence. The prisoner was not apprehended for a long time afterwards, and has doubtless made use of the opportunity in preparing his defence. As the testimony of the prisoner's guilt is positive and direct, and goes to prove that the deceased was wounded by the prisoner from which injury death ensued, we concur with the sessions judge in convicting him of the second count of the indictment; we sentence him to fourteen years' imprisonment with labor in irons in banishment.

PRESENT:

SIR R. BARLOW, BART., *Judge.*

GOVERNMENT AND NOBODDIP PALL

versus

JUGGERNATH ROY.

West Burdwan.

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Case of JUGGERNATH ROY.

Prisoner convicted and sentence confirmed. Prisoner denied the confessions stated to have been made in the mofussil, but failed in his attempt to prove an *alibi.*

CRIME CHARGED.—1st count, committing a dacoity in the house of the prosecutor, Noboddip Pall, wounding him and the late deceased Sheeboo Panday, who had lodged up in his house, and plundering therefrom property of the prosecutor to the value of Rs. 152-2, of the late deceased, Sheeboo Panday, worth Rs. 2-6-5, of other unknown travellers the amount of which is not known; 2nd count, receiving knowingly plundered property obtained by the above dacoity.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Moulvy Gholam Ushruff, deputy magistrate of Boodbood.

Tried before Mr. Pierce Taylor, sessions judge of West Burdwan, on the 3rd August, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case, drawn up under Act XXXIII. of 1854, were as follows.

Prisoner tried under Act XXIV. of 1843.

The evidence in this case has proven that the dacoity actually occurred; that there were travellers, accompanied by four carts containing property (quantity and nature not known,) in a shed which adjoined the prosecutor's house, when it took place; that the chowkeedar, Kisto Doss (witness No. 10,) did not come up until the robbers had departed; that the prosecutor and a peadah, named Sheeboo Paure (since dead,) were found beaten, but not very severely; that neither the aforesaid chowkeedar, the *phareedar* Ramjee Paure, witness No. 1, nor the darogah of Sonamookhee, Hurree Buddun Bundopadhia made any search whatever for the travellers above mentioned; that the prisoner was apprehended while endeavouring to slip away from the house of his relation, Gopal Chowkeedar, in the village of Khurea Soobee, which is about two *coss* from Bunderkoonda where the dacoity was committed; that he was afterwards taken to a garden, called Khunnee, where he willingly confessed having joined various persons, whom he named, in robbing the prosecutor, and proposed to give up his share of the plunder; that he, thereafter, in the presence of the darogah and others, named under the appropriate head of the calendar, produced a large brass *kulsee,* or water-pot, from a grass-stack, and that he repeated his confession nearly in the same terms as before, in the presence of the deputy magistrate.

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Before the sessions court the prisoner repudiates both his confessions, affirming that the first was written by the darogah, out of his own hand, after he had beaten him severely, and that the second was copied from it, by the deputy magistrate's mohurrir. He does not deny that he took up the *kulsee* from the grass-stack with his own hands, but states that it had first been found by the darogah. He also pleads *alibi*, but his witnesses do not in the least support his averments.

The prosecutor has all along denied that the brass *kulsee*, given up by the prisoner, is his, but there is every reason to believe that it must have belonged to one or other of the travellers, who were so culpably allowed to slip off, without enquiry, by the police. Some of the witnesses have deposed that it is not of a form usual in this part of the country, and it has the appearance of an utensil from the upper provinces.

Only one of the witnesses to the finding of the property could be found during the trial, but the fact is not of much consequence, as the prisoner has twice confessed, in a circumstantial manner, and has acknowledged that he took the *kulsee* out of the grass-stack, with his own hand.

On due weighment of all that has been stated, the court cannot but consider the prisoner guilty of the crime charged, and, therefore, convicting him on the first count, on full legal proof, sentence him to twelve years' imprisonment with labor in irons, in banishment, ten years with labor and irons being for the offence, and two ditto in lieu of coporal punishment.

Warrant of imprisonment will be issued immediately and the deputy magistrate will be directed to take measures for advertising the brass *kulsee* in the usual manner. Should no owner for it come forward, it will, of course, eventually be claimable by Government.

The extremely negligent and perfunctory conduct of the chowkeedar, phandeedar and darogah, in not making any enquiry for the travellers, who may have lost a great deal more property, will also be brought to the deputy magistrate's notice.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner confessed in the mofussil and before the deputy magistrate and produced property he had concealed in a stack of straw near a deserted house; he pleaded *not guilty* in the sessions court and cited some of his neighbours as witnesses to prove an *alibi*, they knew nothing in his favor; I confirm the sentence in appeal.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

KALEEPERSHAD (No. 7, APPELLANT,) KEWOLKISHEN SAHEE (No. 8, APPELLANT,) CHETHROO SINGH (No. 9, APPELLANT,) FUKIRCHAUND SAHOO (No. 10, APPELLANT,) JHOOMUCK SAHOO (No. 11, APPELLANT,) SONEPHOOL RAEE (No. 12, APPELLANT,) HURBHUNJUN DOSS (No. 13, APPELLANT,) HUNSRAJ RAE (No. 14, APPELLANT,) KUMMOO JOLAHA (No. 15,) NAGAH MISTRY (No 16, APPELLANT,) PHEKOO (No. 17,) MOHADEO GOWALLA (No. 19,) BUSRAJ GOWALLA (No. 20,) DANEE (No. 21,) SEETARAM KOEREE (No. 22,) MUKHUN SINGH (No. 23, APPELLANT,) HULKHOREE THAKOOR (No. 24, APPELLANT,) BHOJERAJ RAE (No. 25, APPELLANT,) GOPAUL SINGH (No. 26, APPELLANT,) RAJROOP CHOWDHOORY (No. 27,) SHEODYAL CHOWDHOORY (No 28, APPELLANT,) SEWSUHAI SINGH (No. 29, APPELLANT,) SEWSUHAI MUHTA (No. 30, APPELLANT,) BEHARY KULWAR (No. 33, APPELLANT,) NURKOO KOEREE (No. 35,) JHUGROO CHUMAR (No. 36,) LALLJEE SONAR (No. 38, APPELLANT,) AND DEENDYAL KANDOO (No. 41.)

Tirhoot.

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Riot and illegal assembling, &c. to intimidate the magistrate and other authorities. The magistrate had given an order which was obnoxious to the prisoners in the jail, and a rumour spread that a forcible conversion to christianity was contemplated. Sentence of judge of Tirhoot of 7 and 5 years' imprisonment with labor and irons upheld.

The identity of the prisoners was clearly established.—Act V. 1841 is inapplicable as the offence was not a political one, and even if it was, there is nothing in the Act to stay the offence being tried by the ordinary tribunals.

CRIME CHARGED.—Prisoners Nos. 7 to 41, 1st count, insurrection and riot for the sake of intimidating the magistrate and other Government officers of zillah Tirhoot, and preventing them from carrying out an order given by competent authority, which the magistrate was bound to obey, and thus suspending for the time the authority of the magistrate, and other civil authorities both within and outside the jail; 2nd count, being accomplices in a violent and insurrectionary riotous assembly for the purpose above stated, and by means of the said riotous assembly, suspending for the time being, the authority of the magistrate and other Government officers, both within and outside the jail; 3rd count, illegally and riotously obstructing the magistrate and other officers of Government in the execution of their duty; 4th count, being accomplices in an illegal and riotous assembly for an unlawful purpose, during which riotous assembly, some bamboos and other property of Government were carried off and destroyed by certain parties concerned therein; 5th count, assisting the prisoners confined within the jail in resisting the authority of the magistrate and other Government officers and

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by their co-operation and assistance, encouraging them in acts of insubordination insurrection. Additional charge against prisoners Nos. 7 to 14; 6th count, being ringleaders amongst those charged with the offences contained in the preceding counts; additional charge against prisoners Nos. 15 and 16; 7th count, being particularly forward and violent amongst the crowd of rioters that were armed with *lattees*.

CRIME ESTABLISHED.—Prisoners Nos. 7 to 14, 1st and 6th counts, being ringleaders in insurrection and riot for the sake of intimidating the magistrate and other Government officers of zillah Tirhoot, and preventing them from carrying out an order given by competent authority, which the magistrate was bound to obey, and thus suspending for the time the authority of the magistrate and other civil authorities both within and outside the jail; prisoners Nos. 1, 15, 16, 17, 19, 20, 21, 23, 24, 25, 26, 27, 28, 29, 30, 33, 35, 36, 38 and 41; 2nd count, being accomplices in a violent and insurrectionary assembly for the sake of intimidating the magistrate and other Government officers of zillah Tirhoot, and preventing them from carrying out an order given by competent authority which the magistrate was bound to obey and by means of the said riotous assembly suspending for the time being, the authority of the magistrate and other Government officers both within and outside the jail.

Committing Officer.—Mr. A. E. Russell, magistrate of Tirhoot.

Tried before the Hon'ble R. Forbes, sessions judge of Tirhoot, on the 25th July, 1855.

Remarks by the sessions judge.—The circumstances which gave rise to the very serious insurrectionary riot at this station on the 10th May last, in which the prisoners were charged and have been convicted of being concerned, were these.

On the 9th May, or day preceding, a disturbance took place in the jail in consequence of an order received from the inspector of prisons, by which the convicts were to be deprived of their brass *lotahs* for which earthen drinking cups were to be substituted, and the prisoners having *en masse* resisted the order, assaulted the jailor in the execution of his duty and committing other acts of violence and insubordination, positively refused to go into their wards that day or night. It appears that during the night considerable numbers of people had flocked into the town of Mozuffurpore, and early the next morning it was ascertained that a large body of men had riotously collected near the jail which is close both to the collector's and magistrate's cutcherries, and that of the sub-deputy opium agent and his godown; the period when this riot took place, being in the height of the opium weighing season, in consequence of which there was also a large influx of opium ryots in and about the town. Information of the riotous assemblage was promptly communicated to

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the different Government officers at the station, who, as promptly, proceeded to the scene of the disturbance in the hope of being instrumental in quelling it, and in inducing the rioters to disperse. About five hundred yards to the eastward of the jail, there appeared to be, on a rough calculation, about three hundred people drawn up, most of whom were armed with *lattees* or bamboo poles, many of them with sticks and other things laid hold of as weapons, which had been taken from the Government jail manufacture godown in course of construction, one of the prisoners, a well known carpenter of the town, having been seen in the act of cutting and distributing bamboos, the property of Government to the insurgents. These weapons, the body of the rioters marshalled and drilled, as it was easy to see by a few leaders, kept brandishing over their heads accompanied with shouts and gestures of defiance, the armed rioters being backed and incited by hundreds of others without arms, while the vicinity of the cutcheries, the jail and opium-godown was thronged with a dense concourse of people. Some opium ryots, many it is said, from neighbouring villages in the mofussil, and most of them residents of the town and station, the number of which, it is quite impossible to estimate. It was speedily ascertained that the object of this riotous gathering was by overawing the authorities to compel them to restore the *lotahs* to the prisoners, and an absurd rumour having got wind that Government intended to make the prisoners Christians by force, there is little doubt that this insurrectionary movement was set on foot by some persons of greater influence and better condition in life than the majority of those who were actively engaged in the disturbance, and that had the magistrate adopted any but pacific and concessive measures, so excited and determined did the mob appear to gain their point, there is still less doubt that blood-shed and plunder would have ensued. It should here, too, be stated, that had it not been for this outbreak of the populace in sympathy with the convicts in the jail the *lotahs*, (the order for taking which away emanated from competent authority whom the magistrate was bound to obey) would not have been returned to the prisoners, without a reference to superior authority, which the magistrate fully intended to have made.

After the lapse of some time during which the magistrate, both personally and by repeated orders issued through his officers, had unsuccessfully exhausted every effort to induce the rioters to disperse, it became quite evident, though the whole available strength of the jail guard was drawn up with loaded muskets in front of the jail that, whatever the consequences might be, the insurgents were fully determined not to disperse unless the prisoners' *lotahs* were restored, and accordingly as the jail guard (whose allegiance and fidelity from circumstances

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which then and subsequently came to light, there was good ground for doubting) was insufficient both to cope with the rioters, whose numbers were every moment increasing, if the latter resorted to extremities, and to prevent the prisoners from breaking jail, and the Treasury and Opium-godown from being plundered, the magistrate reluctantly saw that under the emergent circumstances there was no help for it, but temporarily to concede the point of the *lotahs* pending reference to Government, and this being done, the rioters who had obtained their object by degrees dispersed. While the out-break was at its height, and long before the *lotahs* were restored, the additional judge, the magistrate and myself had privately given orders to as many officers of police of all grades, and chuprassees and other servants of Government, as came near us, to endeavour after taking off their clothes and badges, as secretly and unobservedly as they could, to identify as many of the rioters as possible and particularly any who seemed to be the most forward and active in inciting the rest, and having been told at the time by the Mozuffurpore thannah mohurrir of his having seen two of the prisoners Chutro Singh No. 9, and Hurbhungun Dass No. 13, among the rioters, I immediately put down those names in paper, and as the body of the rioters eventually came close up in front of the jail, the recognition of any by those who had either previously known them or carefully remarked their appearance and features at the time was easy. I could myself swear to having at that time seen the prisoner Kaleepershaud No. 1, and he and others were recognized by the magistrate as stated in that officer's proceeding of the 9th July on the record, doubtless many other persons besides Government officer and servants must have had many opportunities and must have seen and recognized many of the rioters at the time, but as, unless such persons voluntarily came forward to depose, the magistrate could not avail himself of their testimony, or indeed know who had or had not recognized any of the rioters, the convicting testimony is almost entirely that of the Government officials and officers of police with the magistrate at the time of the riot. I am bound, however, to declare that the perfectly straightforward and open manner in which the witnesses fearlessly gave their evidence before me, and the unhesitating way in which almost all of them pointed out those whom they recognized (even through the appearance of many of the prosoners from grown beards and changed garments and other causes was considerably altered, since their first recognition of them before the magistrate) strongly impressed me with their credibility and truthfulness. In regard too, to any seeming discrepancy between the testimony of particular witnesses, from one disposing to having seen a particular prisoner at one and another witness at another place, it must be borne in mind that

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during the riot, which lasted about three hours, the rioters both the mass and individuals of them did not remain stationary in one spot, but moved about, some of them sometime leaving their own party and mixing with the crowd of spectators from place to place, while in regard to time, the natives who, not keeping it by clocks and watches, are never very accurate, could not be expected to be more so, during such a scene and time of excitement and confusion.

Nos. 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 23, 24, 25, 26, 27, 28, 29, 30, 33, 38, and 41.

The prisoners marginally numbered, plead *not guilty*, and though several of them urged in their defence that they had only been implicated through the enmity of particular persons, who induced the witness to name them, yet not one of them has succeeded in establishing such a defence either by oral evidence or documentary proof. All of them on the unrefuted and uninvalidated evidence of at lesat three, some of double, some of treble, and some of four times that number of witnesses who plainly recognized them from previous knowledge and acquaintance, as well as on the testimony of several separate witnesses, who identified them from their recollected appearance and features at the time, are clearly proved to have been concerned in the riot in which the first eight of the above prisoners appear, from the evidence, to have been ringleaders, and to have taken throughout the business the most prominent leading and active part.

Nos. 17, 19, 20, 21, 22, 35 and 36.

The seven prisoners marginally numbered (all of whom are opium-cultivators) likewise pleaded *not guilty*, and four of them urged that they were not here on the day of the riot, and the other three that having been here they were on that morning sent outside the town, although these prisoners were not recognized like the preceding twenty-one by persons previously acquainted with them, yet three of them Nos. 17, 21, and 35, were seen among the rioters each by one witness who was informed at the time of their names, all the seven having been identified by several witnesses from their appearance of features at the time, while the denial of those of them who pleaded not being in Mozuffurpore on the day of the riot is disproved by a report of the gomashta of the Jussowlee opium *kotee* (of which these seven prisoners are ryots) dated the 23rd July, which received from the sub-deputy opium agent in reply to this court's proceeding of the 21st idem, is on the record. From that document it is clear that according to the custom of the opium department during the weighing season the Jussowlee ryots, having been ordered, were in attendance with their opium on the 9th May, the 10th or day following which was that of the riot, being fixed for the weighing of their opium.

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In concurrence with the law officer's *futwa*, I convict the whole of the above prisoners Nos. 7 to 14, on the 1st and 6th counts, viz., of being ringleaders in the riot and insurrection, and the prisoners Nos. 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 35, 36, 38 and 41, on the 2nd count, and considering that they all acted most unwarrantably and illegally in taking the law into their own hands and disturbing the public peace by a lawless insurrection, for the purpose of overawing and dictating to the authorities of Government by a demonstration of physical force which might have been attended with the most fatal consequences, I sentence the prisoners Nos. 7, 8, 9, 10, 11, 12, 13 and 14, to be imprisoned each for seven years and the prisoners Nos 15, 16, 17, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 33, 35, 36, 38, and 41, each for five years and all with labor and irons.

Remarks by the Nizamut Adawlut. —(Present: Messrs. H. T. Raikes and J. H. Patton.) The history of this case is fully detailed in the remarks of the sessions judge. He therein describes how the insubordinate feeling and discontent of the convicts within the jail communicated itself to the people outside, and the consequence was, the tumultuous assemblage of a number of the towns-people and others, with the avowed object of compelling the magistrate to restore the *lotahs* to the convicts, and until this was done, neither threats or promises induced them to disperse.

There is abundant evidence on record as to the identity of the prisoners as taking part in this assembly, and to the common feeling and object which actuated them, namely, to compel the magistrate by a display of physical force to comply with the insubordinate demands of the convicts on the plea that their caste was in jeopardy, and that the whole population was to be christianised. There is no doubt that the magistrate gave way to this turbulent display of feeling, and restored the prisoners *lotahs*, but in dealing with the offence of the prisoners before us, it is not necessary for us to enquire whether the magistrate's compliance proceeded from his own apprehensions of danger, or from his unwillingness to force matters to extremities by forcibly resisting the popular tumult; the fact, therefore, of his evidence not being on record is immaterial, it is sufficient to ascertain, if proof be forthcoming to convict the prisoners on trial of an open and premediated attempt to over-awe the authorities, whether the object they had in view was accomplished or not, though that also may be considered in measuring the punishment of the offenders.

On the above point, there is the evidence of many trustworthy witnesses who recognized the prisoners as more or less actively engaged in keeping together the mob, and in intimating to the authorities the object of their assembling and the impos-

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sibility of pacifying them save by a complete compliance with their wishes, and the proof goes to show that the mob refused to disperse, until some of their number had ascertained by actual observation that the *lotahs* had been severally restored to all the convicts.

It has been pleaded before us by Mr. Allan, on the part of the prisoners, that as they have been charged with *insurrection* and riot, the offence is one against the State, the prisoners therefore have not been properly brought to trial, they should have been tried in conformity with Act V. of 1841. 2nd, that the order of competent authority referred to in the indictment is not on the record, showing what that order really was. 3rd, there is nothing to show that this order was ever communicated to the prisoners, so that there is no legal proof of their opposing that order, and 4th, the order alluded to was illegal and rescinded by the Government, the same having been issued without authority. 5th, that the sentence passed on his clients is excessive.

On these pleas, the Court observe that the term insurrection may not have been judiciously applied to the offence of the prisoners, but it does not necessarily imply rebellion or treason against the State, and even had the charge involved crime of that character, the ordinary courts of the country are declared, by Act V. of 1841, competent to deal with them, unless a commission be issued by the Government to try the offenders.

We are, however, of opinion that no ground whatever existed to treat these prisoners as political offenders, nor does a single circumstance in this out-break lead us to believe that those concerned were actuated by any feelings of hostility or disaffection towards the Government. The authorities, therefore, have acted discreetly in refusing to recognise, in the acts of these men, any ulterior object against the State.

On the other technical objections raised by the pleader, we hold that the evidence before us, clearly indicates the nature of the order against which the opposition was offered, which has brought the prisoners to trial, and the fact pleaded that such order was never communicated to them in no degree palliates their offence, neither can the subsequent recall of that order or its non-recognition by the Government be pleaded in justification of the violent measures resorted to by the prisoners.

The sessions judge has sentenced Nos. 7 to 14, to seven years' and the others to five years' imprisonment. There are reasons for upholding these sentences, though more severe than those awarded in cases referred to by Mr. Allan. But it is to be observed that in this case the guilt of the prisoners is much enhanced by the combination which characterised this outbreak, and which no doubt conduced to its successful issue, by overawing the authorities and inducing them to yield the point to the convicts within the jail, this concession of the civil power at

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the moment must be counterbalanced by making a severe example of the offenders, and on this account we refuse to mitigate any part of the sentence passed on the criminals.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT

versus

NAREAH.

Assam. 1855. October 26. Case of NAREAH.

The prisoner was acquitted on the ground of insanity.

CRIME CHARGED.—Wilful murder of Chakooli.

Committing Officer.—Captain E. A. Rowlatt, magistrate of Kamroop.

Tried before Major Hamilton Vetch, deputy commissioner of Assam, on the 4th July, 1855.

Remarks by the deputy commissioner of Assam.—I have the honor to submit, for the purpose, of being laid before the Court of Sudder Nizamut* the proceedings in the above case tried by Captain E A. Rowlatt, magistrate of Kamroop, assisted by a native jury in accordance with the rules for the administration of criminal justice in Assam.

It appears that the deceased Chakooli (a child of between three and four years of age) is the daughter of the prisoner, and that the two were together near his house, when he struck her in the left temple with the back of an axe, which felled her, and when down, he gave her a second blow with it on the back of her head; some neighbours who were at hand, saw the blows struck, and gave the alarm, and they and others coming to the spot, disarmed and secured the prisoner, the child's mother also arrived, and took her up in a senseless state; next day the prisoner was brought into the station, and made over to the police, and the child was taken to the hospital, where she expired.

The prisoner, before the jury, pleading guilty, and made no defence beyond that he committed the deed in a fit of passion, but was neither drunk or mad at the time.

In his confession before the police, he stated that the deceased

* From the magistrate of Kamroop, to the deputy commissioner of Assam, No. 5, of 1855, dated Gowhatty, the 4th June, 1855.

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was his daughter by his mistress Deepere, who lives with him; that on the day in question he was outside his house, cutting up firewood with the axe, when deceased came near, and began meddling with the wood, he got angry at this, and struck her with the axe two blows, one over the left eye, and the other on the back part of the head, and from the effects of which she died after surviving a night and day, and adds, that he was at the time under influence of liquor, which he had kept concealed in the house, that his mistress might not know of his having it. His confession before the magistrate is almost exactly to the same purport.

Witness, No. 1, Bhokut Dhoobi,
2, Khora,
3, Padoora.

Three witnesses depose that they were at work in an opium field within about five *tars*, i. e. sixty feet of the spot, where the prisoner and the deceased had been talking together, saw him enter his house, and return with an axe, and meeting the child going towards the house, he raised the axe with both hands, struck her with it in the head over the left eye, she fell with a groan, when he again struck her with it in the back of her head. The prisoner remained standing with the axe in his hand, and they fearing he might attack them, did not approach until some neighbours arrived, when they went up and secured him, the mother of the deceased also arrived, and took the child in her arms, and carried it into the house, while they removed the prisoner to a farm near, and kept him in custody till next morning, when they took him to the thannah, whence the child was carried to the hospital where she died during the night. The prisoner confessed before the police. They are witnesses to the *sooruthal*, and to seeing the mark of a blow on the head over the left eye, which had fractured the skull, and another on the back of the head, they recognize the axe as the weapon, with which the blows were struck, it is eight fingers in depth, three broad on the edge and two and a half on the back, the helve is a cubit and three fingers long. These witnesses describe the prisoner to have been idle and listless for about a month before, but they can give no reason for his having committed the act.

Mr. Simons, the medical officer, deposes that he examined the child, and that he had found a fracture on the skull extending nearly all round (excepting about five inches,) and which caused her death. In his deposition before the foujdary court, he stated that during the time, the prisoner was placed under his observation, he did not detect any symptoms of insanity, or in any way lead him to conclude that he had been at any previous time suffering under mental derangement, but that he seemed listless and dull, and of very limited capacity.

Witness No. 4, Mr. Simons in medical charge.

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Witness No. 5, Molkah.—Deposes to having heard the alarm, and removing to the spot, found the witnesses Nos. 1, 2, and 3, standing by, also the prisoner standing with the axe in his hand, and the child lying senseless on the ground, they then secured

I have the honor to forward the proceedings of the case noted in the margin, the trial of which was held before me with the aid of a native jury, consisting of the following members.

MAGISTRATE'S COURT ZILLAH KAMROOP.
TRIAL No. 10, OF 1855.
GOVERNMENT
versus

No.	Name of prisoner.	ate of apion.	of comment.
	Nareah, son of Surja, aged 40 years.	E 15	[illegible]

Charge.—Crime No. 3, wilful murder of Chakooli.

Verdict of jury.—Of a jury of five, three convict the prisoner of culpable homicide, two return a verdict of acquittal on account of insanity.

Opinion of magistrate.—Concurring with the opinion of minority of the jury in finding that the prisoner killed his daughter Chakooli, whilst laboring under a state of insanity, and therefore acquits him of the charge, and recommends that he be placed in confinement until declared to be of sound mind.

* Bukkut Dooli.
Khora.
Padoora.

Sheikh Nizamutd n, Moralikant, Sabaga, Nirunjun, Daka, Moonshee Saadut Ali

On the 18th February, 1855, the prisoner was left alone at home with his daughter Chakooli aged three or four years, and about 5 P. M. was standing under a jack-tree near the house with her, when the prisoner went into the hut, and bringing out an axe struck the girl who was coming towards him, a blow on the left temple which felled her to the ground, when he again struck her another blow on the back of the head above the neck, this was observed by three witnesses named in the margin,* who called out to two others near at hand, when the five ran up, and secured the prisoner and kept him during the night at Kallo Moonshi's *khat*, and next day took him with the girl, who was still alive, to the thannah of Gowhatty, the girl was immediately sent to the Hospital but died at 5 P. M. the same day.

The prisoner had pleaded guilty throughout, and has not named any witness for examination during the trial.

The jury are divided in opinion as to the verdict, three having recorded that the prisoner is guilty of culpable homicide, and two that he is entitled to be released as having committed the deed whilst laboring under a state of insanity.

The ten witnesses, whose names are entered in the margin,* all depose that from Magh Beho, which occurred about a month before the deed was committed, the prisoner was in an unsound state of mind, and although the medical officer did not observe any symptoms of insanity during the time the prisoner was in hospital, he stated he was listless and dull and seemed to be of very limited capacity.

* Bhukkuto Dolin
Khora.
Padoora.
Malkah.
Gheena Singh.
Kugah.
Noakoch.
Mungul.
Baonah.
Musst. Deepoori.

The circumstances under which the deed was committed, would also lead to the conclusion, that the prisoner is not of sound mind, as he had apparently received no provocation and had no motive for killing his daughter; in his pleading to the charge, he denied before the jury, that

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the prisoner with the axe, and the mother arriving, took the child in her arms, next day the prisoner was taken to the thannah and the child was thence sent to the hospitl, where witnesses heard of its death, and afterwards saw the corpse. The child had been previously in good health, and died from the injuries she had received; cannot say why prisoner killed her, he appeared abstracted in mood for about a month before.

Witness No. 6, Gheena Singh. Deposes to nearly the same effect as No. 5.

Witness No. 7, Kyah.
" " 8, Nao.
" " 9, Mungul.
" " 10, Baonah

Depose to having heard of the circumstances, and of the death of the child and to the prisoner not having been in his right mind since the month previous

Witness No 11, Musst Deepori. Deposes that she is the mother of the deceased child (aged between three and four years) by the prisoner, she had gone to beg for rice, leaving the child with him, on hearing that he had killed her, she ran to the spot, and found the witness No. 1, and others, had secured him, the child was lying on the ground with a wound above the left [illegible], and another on the back of the head she took her in her arms, and remained with her all night, the prisoner being removed to a farm-house, next day they were all taken to the thannah, where the prisoner confessed, the child died in the hospital during the night, cannot say why the prisoner killed the child, he had been idle and abstracted in manner for a month previous to the act.

Witness No. 12, Bhodutt Surmah.
13, Poosapatt Surmah.

Prove the confession made by the prisoner before the police.

Witness, No. 14, Hurree Singh,
" " 15, Beestooram.

Prove the confessions before the joint-magistrate.

Opinion of jury.—The majority of the jury gave a verdict of guilty of wilful murder, while the minority acquitted the prisoner on the ground that the act was committed by him when in a state of insanity, in which opinion the magistrate concurred, and considered that the prisoner having been in an

he was insane, or that he had been drinking, which in the preliminary investigation he avowed to have been the case, he has invariably stated that he intentionally killed his daughter through anger, but mentions no cause for his anger against her.

Under the circumstances above stated, I agree in the opinion of the minority of the jury, that the prisoner killed his daughter Chakooli whilst laboring under a state of insanity, and would therefore acquit him of the charge, and recommend that he be placed in confinement until declared to be of sound mind.

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unsound state of mind for about a month before, is borne out by the evidence of ten witnesses, as well as by the circumstances under which the deed was committed, without any apparent provocation or motive.

Opinion of deputy commissioner.—The killing of deceased child Chakooli, by the prisoner Nareah, having been fully established, the question of his sanity or otherwise at the time, is next to be considered.

The minority of the jury and the magistrate were of opinion that he was insane, and most of the witnesses depose that his conduct for about a month previous, had given indications of the kind. On the other hand, the medical officer was not able to detect any such appearances.

The confessions of the prisoner taken before the police, and magistrate give no evidence of unsound mind, they are clear and consistent, and although taken at an interval of two days, correspond; they also agree with the evidence of the eye-witnesses as taken before the police and foujdary court, but not with same evidence taken before the jury in the former, these witnesses describe the prisoner as engaged in cutting up wood at the time he lifted the axe against his child, in the last they depose that he went into his house from the place he had been seen, and heard talking with the child and returned with the axe, and meeting her, struck the blows. He describes himself to have been under the influence of liquor, and that the child meddling with wood was the exciting cause of his striking her. He explained that he kept his liquor hid, that his wife might not see it, this, if true, and he took his liquor in secret, would explain away the symptoms which his neighbours took for insanity, on the other hand, if untrue, his having devised the story of being under the effects of liquor would indicate a mind quite alive to the necessity of providing some excuse to palliate the deed, and capable of consistently adhering to it until it lost its efficacy, when in defence he says, that he was not under the influence of liquor, but of anger, and after taking all the circumstances into account, I am of opinion, that he was not at the time in an irresponsible state of mind, but that he gave way to a sudden fit of passion, and killed the child in the manner described, and the circumstances of his striking a second blow at one so young, leaves no doubt that the murder which ensued was at the moment intended, but I am at the same time of opinion that it was not premeditated, and whilst I convict the prisoner Nareah, of the wilful murder of Chakooli, I would recommend that he be sentenced to imprisonment for life with labor in irons in transportation.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The evidence on record shews that the prisoner, without any or the very least provocation, fractured

the skull of his own child of three or four years old, and that the prisoner was a person of weak intellect, and had been for some weeks previous in a moody listless state. A letter from the medical officer,* after the trial of the prisoner, tends strongly to corroborate the suspicion of insanity raised by the above circumstances. We therefore, find, on violent presumption, that the prisoner was of unsound mind when he committed the crime with which he is charged, and accordingly acquit him, and direct that the prisoner be kept in close and safe custody until the pleasure of Government be known.

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Case of NAREAH.

* From the deputy commissioner of Assam, to the register of the Court of Nizamut Adawlut, Fort William, No. 86, dated Gowhatty the 21st July, 1855.

I beg to report that it having come to my notice, since the trial of Nareah for wilful murder, that he had given indications of insanity, I called for a report from the medical officer, which I beg to enclose,* as throwing more light on the state of the prisoner's mind than I was in possession of when holding the trial, and which I beg may be submitted to the Court of Sudder Nizamut Adawlut, along with the records of proceedings.

* No. 41, of the 20th July, 1855.

From the apothecary in medical charge, civil stations Gowhatty, to the Magistrate of Gowhatty, No. 41, dated Gowhatty, the 20th July, 1855.

In reply to your letter of yesterday's date received in the evening, I beg to state that Nareah Cuchari was brought and kept in hospital under observation from the day of his commitment. During the time he remained, that was for about a fortnight, the replies to all the questions put him were correct and rational, and I did not detect any thing to lead me to suppose that he was of unsound mind, only that he appeared to be of weak intellect and understanding, reserved and sullen, and not mingling freely with the other inmates of the hospital.

On the night of the 5th July, he was brought again into hospital as he had become very violent, and had taken up a large bamboo to harm those around him. On admission he did not appear much excited, and the following morning on being questioned regarding his conduct the night previous, replied, that he got angry, because he was thwarted in lighting a fire, and he does not recollect any thing further. He appeared quiet but reserved, the body cool and the pulse natural, and the evening call was much the same. The following morning he however appeared restless giving quick but correct replies to my questions; the head was warm, eyes suffused, pulse frequent and the tongue furred, the people about him said that he had not slept all night, although he persisted in saying that he had. He had also not taken his evening meal, as he said that he was angry, and had no appetite. He was ordered a dose of purgative which removed all these symptoms, excepting that he still spoke rather fast, but the following day this also subsided. Besides these symptoms he has never exhibited any other, he however appears to be naturally of a weak intellect, and understanding, and reserved disposition, and like such individuals irritated from the slightest causes, and then becoming incontrolably violent as displayed when prevented from lighting a fire, consequently he must have then under similar circumstances committed the deed for which he is under trial.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

SHEONARAIN SINGH (No. 1,) TRILOK SINGH (No. 2,) GHEENA SINGH (No 3,) RAMAJOODHYA SINGH (No. 4, APPELLANT,) AND ISHAR SINGH (No. 5.)

Sarun.

1855.

October 26

Case of RAMAJOODHYA and others.

The prisoner's appeal was rejected, the evidence of his guilt being conclusive.

CRIME CHARGED.—Affray attended with the severe wounding of Sheonarain Singh and Gheena Singh.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. W. F. McDonell, officiating magistrate of Sarun.

Tried before Mr. Henry Atherton, sessions judge of Sarun, on the 25th June, 1855.

Remarks by the sessions judge.—This is a case of affray arising from a putteedaree dispute between Sheonarain defendant No. 1, and his cousin Trilok Singh No. 2, on the one side and Gheena Singh No. 3, Ishar No 5, and another Badra Singh absent, on the other. These parties came to blows on the morning of the 2d March last, as appears by the evidence of witnesses Nos. 1 and 2, while using their *luttees,* defendant No. 4, Ramajoodhya with another man absent Madhoo Singh, armed with *ghurassees* or battle-axes came to the aid of Gheena Singh, and assaulted Sheonarain Singh, who received two blows from Ramajoodhya and one from Madhoo Singh. The right hand was injured by the blow of Modhoo Singh, but one blow from Ramajoodhya cut Sheonarain's left hand clean off above the wrist, amputation of the arm above the elbow by the civil surgeon being subsequently necessary. These two men were also seen by witness No. 8, Girdhary Singh, running home with the bloody *ghurassees* in their hands. Trilok Singh, received a slight wound in the arm, Gheena Singh being more severely handled, as his left arm has been broken and permanently injured. It does not appear whose blow caused this injury, but there is every reason for believing that Gheena Singh himself commenced the affray which would have been disposed of by the magistrate, had not the case been rendered more serious by the arrival of Ramajoodhya and Madhoo Singh. The defendants plead *not guilty* but the charge is, in the opinion of the Moulvee and myself, proved against them. It is fortunate that Sheonarain escaped with his life, the attack on him by Ramajoodhya and Madhoo Singh being most savage, Ramajoodhya is therefore deserving of severe punishment and is accordingly sentenced with the rest.

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Sentence passed by the lower court.—No. 1, to six months' imprisonment, and Nos. 2, 3 and 5 to one (1) year's imprisonment without irons, each to pay a fine of Co.'s Rs. 25 on or before the 25th July, 1855, and in default of payment to labor until the fine be paid or the term of sentence expire, and No. 4, to be imprisoned with labor in irons for a period of seven (7) years.

Remarks by the Nizamut Adawlut. –(Present: Messrs. A. Dick and B. J. Colvin.) Prisoner No. 4 has appealed. He says he has been accused from enmity, but there is no proof of this, while the evidence for the prosecution establishes his guilt. The statement made in his petition of appeal, that he came after Sheonarain and Gheena were wounded and went to assist in raising the latter, his relative, from the ground, was not made by him before either the police, magistrate or sessions judge; and he was named from the very first as the party who attacked Sheonarain and cut off his hand at the wrist. We reject the appeal.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

RAMKISHEN DEB.

Mymensingh. 1855. October 27. Case of RAMKISHEN DEB.

Crime charged *knowingly* uttering counterfeit coin. Acquitted by the Nizamut Court on the ground that there was no proof that the prisoner uttered the counterfeit coin, *knowing* it to be spurious.

CRIME CHARGED. –Knowingly giving a quick-silvered pice, saying it to be a silver half rupee and asking for 8 annas pice in exchange.

CRIME ESTABLISHED.– Knowingly uttering counterfeit coin.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensingh.

Tried before Mr. W. T. Trotter, sessions judge of Mymensingh, on the 20th June, 1855.

Remarks by the sessions judge. –From the evidence of the prosecutor and witnesses, it appears that on the 10th Bysack last at about 3 P. M. the prisoner went to the prosecutor's shop and presented a pice rubbed with quicksilver to be exchanged for 8 annas in pice, when the prosecutor finding it to be counterfeit coin asked him where he got it from, when he replied that Madhub Kobraj (acquitted by the magistrate) gave it to him to get it exchanged for pice. The prosecutor then immediately made him over to the police chowkeedar. Before the police magistrate, and this court, the prisoner stated that Madhub Kobraj gave him the coin to get it exchanged; but that person

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Case of RAMKISHEN DEB.

denied before the police and magistrate the prisoner's story, but admitted that he gave him a silver half rupee; but there being nothing in the evidence of the witnesses for the defence to show that he received it from the Kobraj, I consider that the charge of knowingly uttering counterfeit coin is proved against the prisoner, and sentence him to imprisonment without irons for the period of three years, and to pay a fine of 25 Rs. in lieu of labor, or in default to labor until the fine be paid or the period of sentence expires.

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and J. H. Patton.) Although the evidence fully establishes that the prisoner attempted to pass the couterfeit coin for an eight-anna piece, yet the presumption is strong in his favor that he was himself ignorant of the deception and had been made a tool of by Madhub Kobraj. The witnesses for the defence describe the prisoner as a half-witted person, and some of them depose to Madhub's having admitted at the thannah that he gave him the counterfeit coin. This Madhub denied before the court, but admitted having given him a good eight anna piece to change for him. As no other coin was found upon the prisoner, we think it may be safely presumed that the coin Madhub entrusted to the prisoner was the one he attempted to pass, and there is no reason to believe that he was aware of the fact of its baseness We think the prisoner under the circumstances entitled to his acquittal and order his release.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND BUDDUN MOOCHEE

versus

RADHANATH GHOSE.

24-Pergunnahs.

1855.

October 27.

Case of RADHANATH GHOSE.

Prisoner convicted of being an accomplice in a highway robbery, on the grounds of clear corroborative proof against him, and of his defence being unsubstantiated, and sentenced to five years' imprisonment in labor and irons, and fine under Act XVI. 1850.

CRIME CHARGED.—Highway robbery of 7 Rs.

CRIME ESTABLISHED.—Being an accomplice in a highway robbery.

Committing Officer.—Mr. J. R. Ward, officiating magistrate of Howrah.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 11th May, 1855.

Remarks by the additional sessions judge.—The prosecutor had sold some hides in Calcutta, and was going to his home on the other side of the river when, at about the hour of gun-fire, he was thrown down by a push from some person behind. This person immediately got upon his back, sitting astride upon him, and two other persons then felt the prosecutor's waist and having taken therefrom 7 Rs, which he had realized by the sale of his hides, they made off. The man who had bestriden the prosecutor would have made off too, but the prosecutor kept tight hold of his legs, till his calls brought some villagers to his help. The person apprehended proved to be the prisoner No. 1.

The above statement is corroborated by the evidence of the chowkeedar of the village in which the prosecutor resides, and by some villagers whose houses were the nearest to the spot. To these persons who went up to the prosecutor on hearing his shouts, he immediately related how he had been robbed by the prisoner and two others who were his companions, and he went straight with his prisoner to the police faree, and accused the prisoner of having been one of three persons who had just robbed him of 7 Rs. on the highway.

The defence of the prisoner No. 1, is that he was walking along the road, going to the house of a party, (the father of two persons tried with him upon this charge) that he overtook the prosecutor who was in a drunken state and shouting abuse against some absent, or imaginary person. The prisoner asked him who it was he was angry with, when he hit him a blow with a stick he had in his hand. Preparing to do so again, the prisoner shouted out when a number of villagers came up to whom the prosecutor affirmed that the prisoner had robbed him.

The prisoner alleges that people were on the road when he overtook the prosecutor and that they saw what took place, but

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the men he named were examined by the magistrate and denied that they were near the spot, or knew any thing of the matter stated in the defence. The prisoner declined to have these persons examined at the sessions, but called witnesses to character, who speak favorably on that head.

The statement of the prisoner, besides that it is not confirmed by the persons who he affirmed could depose to it, is upon the face of it, an untrue one. If the prosecutor had been so tipsy as the prisoner describes him to have been, it would not have been a difficult matter for the prisoner to free himself from his embrace. Men overcome with liquor are always very weak as to physical powers, and it is not possible to credit that a man of the prisoner's make could not have easily got out of the grasp of a drunken man both older and weaker than himself. That the prisoner failed to make his escape from the prosecutor, is itself the best refutation that the prosecutor was drunk, and as a further evidence that he was in his sober senses he gave a consistent account of the robbery to the police immediately after. The prosecutor's story is further corroborated by the direct evidence of the witnesses who went up to his assistance and found him struggling with the prisoner. The hour, the place, the absence of any other persons at the time on the road, the immediate accusation and the absence of motive in making a false charge, are also so many presumptive facts which go to confirm the truth of the prosecutor's statements.

The law officer pronounces the prisoner guilty of the charge preferred against him and, in concurrence with that finding, I convict him of being an accomplice in a highway robbery and sentence him to five years' imprisonment with labor in irons and to pay a fine of 7 Rs. for the benefit of the prosecutor under Act XVI. of 1850.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The corroborative evidence of the witnesses is so strong that there is every reason to believe the truth of the prosecutor's statement, and on that ground to uphold the conviction of the prisoner. Appeal rejected.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT

versus

MUSST. LONEE.

Sylhet.

1855.

October 27.

Case of MUSST. LONEE.

Prisoner convicted of culpable homicide, but sentenced only to two years' imprisonment without labor, on the grounds of sudden strong provocation, and the absence of intention to inflict a mortal wound.

CRIME CHARGED.—Wilful murder of her step-son, Sheikh Rozon. The said Rozon, was wounded by the prisoner on the 12th July, 1855, and died in the Hospital on the 21st.

CRIME ESTABLISHED.—Culpable homicide of Sheikh Rozon.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 10th August, 1855.

Remarks by the sessions judge.—The deceased, who was step son to the prisoner, had on the day of the occurrence a dispute with her about oil. The witness No. 1, states that the deceased was sitting in his house in the evening and was abused by his father, Abdoollah, who in consequence of his son's relating, attacked him with a *dao*, but that mischief was prevented by the witness and No. 2, who came up on hearing the noise. Both witnesses state that the prisoner came forward and abused the deceased, who sprung upon her and that a struggle ensued between them, when the deceased exclaimed he was killed.

That the prisoner ran away when they found that the deceased had been stabbed in the chest with a knife, which they found on the spot, but which they had not noticed in the prisoner's hand when the quarrel commenced.

The knife was produced in court and was a clasp knife, about 3 inches long in the blade, and ¾ of an inch in diameter. The deceased was sent into Hospital on the 15th and died on the 21st from mortification of the lungs and pleura, caused by a stab in the chest, the upper tube of the right lung having been pierced to the depth of two inches. There were three other wounds of a slight description, but they are sufficient to prove the evil temper of the prisoner and to disprove the assertion made by her that the wounds were inflicted accidentally in the struggle, for there is no spring to the blade of the knife and it required effort to keep the blade open.

The prisoner admits the struggle and says she had the knife in her hand when it commenced.

One of the assessors convicts the prisoner of wilful murder, the other of culpable homicide, and in this latter verdict I concur, for though there was ill-will between the parties, there is no evidence of a deliberate intention on the part of the prisoner to murder the deceased.

1855. October 27. Case of MUSST. LONEE.

Sentence passed by the lower court.—Sentenced to seven years' imprisonment with labor suited to her sex.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We find the deceased's statement on the record which entirely exonerates the prisoner from any intention to take his life. He admits that he assaulted her first and she having a knife in her hand, with which she was cutting beetle-nut, stabbed him with it. We concur with the sessions judge in considering that there was no intention to inflict a mortal wound. The prisoner's act was sudden and intended to free herself from the deceased's attack. Looking at the circumstances of provocation and excitement under which the blow was struck, we think a less severe punishment than that inflicted by the sessions judge may be awarded, and that a sentence of two years' imprisonment without labor will be fully sufficient to mark the Court's sense of the recklessness of the prisoner's conduct.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

JEETOO DUTT.

Hooghly. 1855. October 27. Case of JEETOO DUTT.

Prisoner denied at sessions trial, a statement, said to have been made by him before the deputy magistrate, and to which, his mark was attached. Convicted on clear proof of perjury and sentenced to three years' imprisonment with labor in irons.

CRIME CHARGED.—Perjury.

Committing Officer.—Moulvee Abdool Luteef, deputy magistrate of Jehanabad, sub-division.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 14th September, 1855.

Remarks by the additional sessions judge.—The prisoner was a witness to the finding of a gold armlet in the house of a person charged with having obtained it in a dacoity. He gave his testimony before the deputy magistrate that the armlet in question was found in his presence, but when put on his examination before the sessions judge, he affirmed that the search of the house was not made in his presence, and that he never saw the armlet which was at the time placed before him.

The deposition on oath before the magistrate is proved by the writer who recorded it. The deposition before the judge is also proved upon the testimony of the umlah of the judge's court.

The prisoner denies that he ever deposed to the effect that the house was searched in his presence, and that the armlet was found in the searched house.

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Case of JEETOO DUTT.

The law officer acquits the prisoner, on the ground that the deposition before the deputy magistrate is not proved on the testimony of the single witness who has been examined as to that deposition.

If the single witness is in all respects entitled to credit, and I can see no reason to discredit him, the fact he deposes to is established, as well on his single testimony as if there were half a dozen witnesses to the same point.

Disagreeing then with the *futwa* and thinking that the prisoner is proved to have committed a wilful perjury, I recommend that he be sentenced to three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) There is the prisoner's mark attached to the statement made by him before the deputy magistrate, and the evidence of the mohurrir who recorded it certifying its authenticity. In the absence of any ground to doubt the truth of the evidence against the prisoner, we consider it legally sufficient to establish his guilt and sentence him, as recommended, to three years' imprisonment with labor in irons.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KUMLAKAUNTH DHUR.

Dacca.

1855.

October 27.

Case of KUMLAKAUNTH DHUR.

The prisoner was convicted of embezzlement, the sessions judge informed that he should have referred the case.

CRIME CHARGED.—1st count, charged with having fraudulently and feloniously embezzled between the 23rd of November, 1852, and the 7th January, 1855, whilst employed as sudder buxshee and as tehseeldar of the rents of the Committee-gunge and the Government Ferries the sum of Rs. 1,482-3-10½, more or less, viz.,

From chowkeedary collection, ...	Rs.	451	12	9
„ Khaus mehaul chowkeedars' salaries, ..		67	12	6
„ The sudder chowkeedars' salary, ...		16	10	0
„ The fines of sudder chowkeedars,......		1	9	0
„ Saving from the chowkeedars' pay, ...		0	15	6
„ The salary of the duffadars, ...		30	0	0
„ The ferry collections, ...		720	9	0
„ The Committee-gunge collections, ...		192	15	1½
Total, Co.'s	Rs.	1,482	3	10½

2nd count, stealing the above sum or sums; 3rd count, forgery

1855. October 27. Case of Kumlakaunth Dhur.

in making with fraudulent intent, the following alterations in the accounts which were attested by the magistrate and treasurer to this office, viz.

In the register of payment for the ferries for the years 1852, 1853.

In page 13, altering the receipt for Rs. 106-6, both in figures and in writing into Rs. 206-6, and afterwards re-altering it into its original amount.

In page 14, making an entry against the Postah Chandnee Ghaut No. 8, and afterwards scratching it out.

In page 15, altering both in figures and in writing the receipt for Rs. 54-7-3 into Rs. 94-7-3, and afterwards re-altering it into its original sum.

In page 25, for altering both in figures and in writing the receipt for Rs. 9 into Rs. 90, and afterwards re-altering it into its original sum.

In page 37, for altering both in figures and in writing the receipt for Rs. 261-6-9 into Rs. 361-6-9, and afterwards re-altering it into its original amount.

In page 42, making an entry against the Postah Chandnee Ghaut No. 8, and afterwards scratching it out.

In page 43, for altering both in figures and in writing the receipt for Rs. 30-1-6 into Rs. 60-1-6, and afterwards re-altering it into its original amount.

In the register of payments for the ferries for the years of 1853, 1854.

With fraudulent intent between the pages marked A and B putting two new leaves into the book, and making the entries marked C and afterwards pasting the two leaves together.

In page 2, altering the dates of the receipts for collections from Ghauts Nos. 14 and 23, with fraudulent intent.

In page 3, altering with fraudulent intent the date of receipt of Rs. 329-4, from the 11th November into 21st November, 1853.

In page 3, altering with fraudulent intent the date of receipt of Rs. 178-2-3, from the 17th November into the 27th November, 1853.

In page marked B altering the receipt for Ghaut No. 18, from annas 9-9 into Rs. 15-9-9.

In page 22, making an entry against Ghaut No. 28, for 100 Rs. which were never paid in by him and for which he never got an acknowledgment from the magistrate or treasurer.

In page 25, for altering both in figures and in writing the receipt for Rs. 302-15 into Rs. 502-15, and afterwards re-altering it into its original sum.

In page 29, making an entry against Ghaut No. 8, for Rs. 46, which were paid in by him and for which he never got a receipt from the magistrate or treasurer.

1855. October 27. Case of KUMLAKAUNTH DHUR.

In page 33, making an entry against Ghaut No. 16, which sum was never paid by him to the treasurer and for which he never got the magistrate's or treasurer's receipt.

In page 34, for altering both in figures and in writing the receipt for Rs. 174-10-3 into Rs. 674-10-3, and afterwards re-altering it into its original sum.

In page 34, making two entries one against Ghaut No. 28, and the other against Ghaut No. 8, and never paying the collections whatever they were to the treasurer or receiving his or the magistrate's receipt for the same.

In the register of payments of collections for the Committee-gunge.

In page 36, for altering both in figures and in writing the receipt for Rs. 33-15-3 into Rs. 63-15-3, and afterwards re-altering it into its original amount.

In page 38 for altering both in figures and in writing the receipt for Rs. 1-13 into Rs. 33-13, and afterwards re-altering it into its original amount.

In page 38 for altering both in figures and in writing the receipt for Rs. 1-13 into Rs. 41-13 and afterwards re-altering it into its original sum.

In page 42, for altering both in figures and in writing the receipt for Rs. 8 into Rs. 80, and afterwards re-altering it into its original amount.

In page 42, for altering both in figures and in writing the receipt for Rs. 2-8 into Rs. 32-8, and afterwards re-altering it into its original amount.

In page 42, for altering both in figures and in writing the receipt for Rs. 2-8 into Rs. 23-8 and afterwards re-altering it into its original amount.

In page 43, for altering both in figures and in writing the receipt for Rs. 7-8-6 into Rs. 77-8-6, and afterwards re-altering it into its original amount.

In page 43, for making an entry on the 5th of May, 1854, of a payment of 50 Rs. to the treasurer and then correcting it; 4th count, being an accomplice in the above forgeries; 5th count, being an accessary to the above forgeries; 6th count, with fraudulent intent making the above alterations or causing them to be made; 7th count, being an accomplice with the parties who made above alterations with fraudulent intent; 8th count, with fraudulent intent obtaining the magistrate's signature to an account purporting that the whole of the rents from the ferries for the years 1852, 1853, had been collected except Rs. 34-10-9, knowing that such was not the case.

CRIME ESTABLISHED.—Embezzlement.

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

1855. October 27. Case of KUMLA-KAUNTH DHUR.

Tried before Mr. S. Bowring, sessions judge of zillah Dacca, on the 30th May, 1855.

Remarks by the sessions Judge.—The prisoner was sudder bukshee, and also collected the ferry and other dues. Being suspected of embezzlement, his accounts were examined by the serishtadar and nazir of the foujdary, and a balance as laid in the charge found to be due.

The mohurrirs of the office, gave evidence to show that the prisoner, contrary to usual practice, kept the accounts himself and caused them to be written up generally by his own, not by the Government mohurrirs. Other witnesses deposed to payment of rent by them for Government premises, which items had not been credited, and some chowkeedars and others to non-receipt of their wages, although the sums had been charged by the prisoner.

The prisoner made partial admissions before the magistrate, but in the court pleaded *autrefois* acquit, declared the whole charge a fabrication got up from enmity by the mohurrirs of the office and made some rather contradictory declarations, saying nothing was due to Government, but claiming deduction of certain sums from the amount. He called witnesses, who proved a quarrel with some of the mohurrirs.

The law officer found the prisoner guilty of embezzlement, and also on the third count.

In his confession of the 25th January, 1855, before the magistrate (duly witnessed) the prisoner admitted the misappropriation of Rs. 273-5-3, to which extent I convict him, but whatever suspicion there may be of a larger sum having been embezzled, the very irregular manner in which the accounts were made up, has prevented me from finding the prisoner guilty to the extent laid in calendar. The prisoner was dismissed on the 8th January, and ordered to make over his accounts and the cash to Sadoochurn, a mohurrir of his office with whom he was at variance. The accounts were not apparently examined till March, on the 12th of which month, the balance was struck in the absence of the prisoner, who was at the time confined in jail. Before the magistrate, the prisoner said the accounts appeared correct, but as the books were so long in the custody of parties with whom he had been on bad terms, and he now denies the correctness, I can place no confidence on the balance as therein given. The prisoner has not been ordered to pay the amount under Act XVI. of 1850, as such an order might, perhaps, vitiate the claim of the magistrate for any large sum which may be found eventually to be due from him or his surety.

There are many alterations in the accounts charged as forgery, but I do not think it proved that these were made by the prisoner. He says the mohurrirs are the guilty parties.

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Case of KUMLAKAUNTH DHUR.

The plea of *autrefois* acquit is of no avail. The order of the 2nd November, 1854, pleaded refers to a sum of money Rs. 188-4-6 missing in June, 1854. The present charge is for other sums found wanting since the accounts were made up.

The prisoner was punished under Section 9, Act XIII. of 1850.

Sentence passed by the lower court.—To be imprisoned without irons for the period of three years from this date and to pay a fine of fifty (50) rupees, on or before the 30th day of June, 1855, or in default of payment to labor until the fine be paid or the term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The *mooftee* convicts the prisoner on violent presumption of forgery, and also of embezzlement. The sessions judge convicts the prisoner on his own confession of embezzlement only, to the extent of Rs. 273-5-3.

The Court, after a careful perusal of the prisoner's confession of the 24th and 25th January last, concur with the sessions judge in convicting the prisoner of embezzlement; and as the sessions judge has awarded punishment for embezzlement only (as admitted by the prisoner,) they see no reason for interference with the sentence.

They observe, however, for the future guidance of the sessions judge, that whenever he differs with the *mooftee* as to the amount of guilt proved against a prisoner, he should refer the case to the Nizamut Adawlut.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

Backergunge

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October 29.

Case of LALLCHAND KYEBERTO.

Prisoner sentenced to imprisonment for life in the zillah jail on account of strong doubts of his sane state of mind when he committed the crime.

GOVERNMENT

versus

LALLCHAND KYEBERTO.

CRIME CHARGED.—Wilful murder of Musst. Shonye. On the 3d June, 1855, the prisoner wounded the deceased Musst. Shonye, from the effects of which wound the deceased died.

Committing Officer.—Mr. H. A. R. Alexander, magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 26th July, 1855.

Remarks by the sessions judge.—The prisoner is charged with the wilful murder of his wife Musst. Shonye; the woman was aged from thirty to thirty-two years, was the mother of four living children by the prisoner, two of which are grown up sons, and was by all accounts, a chaste woman.

The particulars are as follows: On the night of the 3d of June, 1855, the prisoner slept in the court-yard of his house, his wife with a daughter aged ten years and a boy aged two years slept in the northern house, the two sons of the prisoner by name Hureechurn and Goureechurn, with a relation by name Kanye, slept on board a boat which was moored within a short distance of the prisoner's house. The circumstance of the men sleeping on board the boat is accounted for by their being fishermen by profession.

At about 4½ A. M. the daughter of the prisoner ran to the boat and informed her brothers and relation that her father was wounding her mother; they went to their father's house and found him walking up and down the court-yard and saying "*manoosh khoon korilam*," "I have murdered a person." The sons raised the alarm, which brought a near neighbour Boodai,* they lighted a lamp and found the woman lying with several wounds on different parts of her body, she was still breathing, but could not answer the questions they put to her. The woman died at 7 A. M. that morning. Teetai chowkeedar went and informed the darogah, who lost no time in proceeding to the spot. The woman was dead when the darogah arrived, the *dao* with which the murder was committed was found on the bed of the prisoner in the court-yard. It weighs 12¼ chittacks and there are marks of blood on the blade.

* Witness No. 11.

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The substance of the prisoner's confession before the police is as follows: "That he was sleeping in the yard of his northern house and his wife, daughter and little son in the northern house; that he struck his wife while she was asleep five or six blows with a *dao;* that she staggered into the court-yard and fell on the prisoner's bed, after a short interval, the prisoner said, I cannot say how many blows I inflicted upon my wife in the court-yard. I first struck her on the breast. My wife died yesterday morning. For seven or eight years I have been suffering from hypochondria, sometimes I remain well, sometimes I get bad, and my mind becomes disturbed. Since I have been thus affected I fancy my wife is attached to some man. My nephew Kanai and others of my own caste used to come to my house and eat *pan* and smoke tobacco. This aroused suspicion in my mind. On the night I wounded her, my wife said to me, Since Soorjoo Moonee has given you medicine, you can't bear to look at any body; go to her house and remain there. I got angry and I wounded her." The prisoner then began to talk somewhat incoherently; after a short interval he stated that at the time he wounded his wife with the '*dao*' then produced, his wife seized the *dao,* that in pulling it away from her the third finger of his right hand and the thumb of his left hand were very slightly wounded.

Before the deputy magistrate, Baboo Gooroocharn Dass, the prisoner made the following confession. "The date I cannot remember, one night my wife Shonye, my daughter Kishoree, and little son slept in the northern house, I slept in the court-yard of that house; towards the morning I got up, brought a *dao* from the house and struck my wife five or six blows, with the said weapon and then came out into the yard, the *dao* fell down in the house and remained there, afterwards I gave my wife some water to drink, she died afterwards. When I wounded her, my wife was not fast asleep, the night I wounded her I wanted to go and sleep with my wife; she said, 'Go and remain in the house of her who has given you medicine.' I was then seized with a fit and did not know what I was doing, and I wounded her. I told every body before this that my mind was in a bad state and asked them to tie me up. A year ago Joogul Dass came one day to my house and in my presence ate '*pan*' with my wife and talked to her, he is a man of a loose character and has ruined two or three men in the village. I could not bear this. Last Byesak, Soorjoo Moonee, Rokunna and Parbuttee gave me some medicine, they would not let my wife see the medicine, I think Soorjoo Moonee gave me the medicine by the advice of Joogul Dass who visits her house. Since I took the medicine I have not felt in my right senses."

Before this court the prisoner denies the crime, on being arraigned, he first refused to plead, began to make faces and to

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shriek out "Bhola;" after talking to him a little he pleaded *not guilty*.

The evidence, independent of the prisoner's confessions which have been satisfactorily attested by the witnesses named in the margin,* is conclusive. It remains to consider whether the prisoner, at the time he committed the crime, was a responsible agent.

* Witness No. 2, Rammaneek Dass.
,, ,, 3, Womakant Bose.
,, ,, 5, Doorgapershad Pansee.
,, ,, 6, Roopchunder Chuckerbutty.
,, ,, 7, Obhoychurn Chatterjia.

The medical officer, who sat in court with me and heard the witnesses give their evidence, deposes that the prisoner is sane, that the prisoner suffers a great deal from spasmodic contractions of the muscles of the neck, which is a painful disease and may make him cross and irritable; but that he does not consider his mind to be affected. The answers of the prisoner to questions put to him by me personally and by the medical officer, through one of the officers of my court, were coherent and perfectly intelligible, his demeanour was also that of a man in possession of his senses. The medical officer deposes that the prisoner is in the habit of making noise and wry faces when he sees him coming to the hospital. On the whole, after consideration of his case, the medical officer is clearly of opinion that the prisoner is sane and that he is a malingerer; the general health of the prisoner is stated to be good. The medical officer, after hearing the evidence of the witnesses, saw no reason to alter or qualify the above opinion.

The *post mortem* examination shews that there were several severe wounds on the body, which must have caused speedy death, and which might be inflicted with some sharp instrument like the *dao* produced in court.

To the above I may add my own opinion from a close watching of the prisoner's demeanour during the two days the trial occupied. He was fully alive to any points which told in his favor, he always shrieked out at the right moment, if any witness deposed to his eccentricity a shriek immediately followed, at other times he was quite quiet. Before taking his second defence I had a long conversation with him, there was much method in his way of answering me, when I asked him whether he had confessed before the deputy magistrate, he answered they copied the thannah confession. I must say that I consider him sane and always to have been so.

The native doctor, two jail burkundazes and a prisoner depose to the prisoner's being quiet and inoffensive, that he shrieks out at night now and then, but this I may observe he does to keep up the character he has, since his apprehension, assumed of being demented.

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The witnesses noted in the margin* depose to the prisoner being at times ill and at times well, that when ill, he was in the habit of abusing people, but never offered violence to any body. His son Hureechurn states that the prisoner attempted to hang himself in Byesak last, but this is not proved.

* Witness No. 1, Hurrychurn Kyberto.
" " 2, Rammaneek Das.
" " 3, Omakanto Bose.
" " 9, Kanye Kyberto.
" " 10, Tetye chowkeedar.

The law officer gives the following *futwa*. He considers the crime of the wilful murder of Shonye proved against the prisoner, but as there is a doubt whether the crime was committed when the prisoner was in his right senses, and some of the heirs have not claimed relationship and the heir of the deceased is the son of the murderer *kissas* is barred, the prisoner is liable to *deyut.*

In this finding I cannot concur; in my opinion the prisoner was perfectly sane when he committed the murder. The witnesses depose that the prisoner was eccentric, but not that he was so insane as to be an irresponsible agent, it is my painful duty to recommend that sentence of death be passed upon the prisoner Lallchand.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) Notwithstanding the strong opinion of the sessions judge and the medical officer, there is in our opinion reason to believe, from the evidence, that the prisoner had an insane tendency, such as although insufficient to justify an acquittal on the ground of insanity, warrants a less punishment than a capital sentence. The evidence proves that for years the prisoner had been violent in his manner, and had discontinued his usual employment; and there is such absence of motive for the crime, unless what the prisoner stated before the magistrate that his wife would not let him come to her bed, that it is presumable that the prisoner was afflicted at the time. It has been held* that a prisoner may not be entitled to acquittal under Act IV. 1849, on the ground of insanity; and yet there may be circumstances to render it proper that he should be exempted from capital punishment. A decision to this effect is to be found at page 354 of the Nizamut Reports for 1854, and there are several others of the same nature. In accordance with the principles therein declared, we sentence the prisoner to imprisonment for life, with labor at the discretion of the magistrate, in the zillah jail, where his case is known and where, if necessary, be can readily he removed to the insane hospital.

* Page 1532, of Nizamut Decisions for 1851.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

Jessore.

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Case of RAMCOOMAR MONDUL and others.

GOVERNMENT AND JUDHISTE GOOREA *versus* RAMCOOMAR MONDUL (No. 1,) SUMUNUDDEEN SHEIKH (No. 2, APPELLANT,) OBHOYACHURN GHOSE (No. 3,) GOPAULCHUNDER SHAHA (No. 5,) ADU SHEIKH (No. 6, APPELLANT.)

Prisoners were convicted on the grounds of their own confessions in the foujdarry.

CRIME CHARGED.—1st count, Nos. 1, 2, 3 and 5, burglary in the house of the prosecutor 'Judhiste Goorea' with theft of property and cash valued at Rs. 1,121-14½, on the night of the 9th of June, 1855, corresponding with the 27th of Jet 1261, B. S.; 2nd count, Nos. 1, 2, 3 and 6, having in their possession or receiving knowingly portions of the stolen property.

CRIME ESTABLISHED.—Nos. 2 and 5, burglary and stealing property to the value of more than 300 Rs. Nos. 1 and 3, detaining stolen property knowing it to have been acquired by burglary and No. 6, knowingly receiving stolen goods.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. W. O. Malet, officiating sessions judge of Jessore, on the 23rd August, 1855.

Remarks by the officiating sessions judge.—The plaintiff states that on getting up from his bed during the night of the 27th Joist, corresponding with 9th June, to make water, he discovered that his house had been entered by two holes cut through the raised earthen foundation of his house, he went in, lit a *cheragh* and looked about, to his dismay he found his chest broken open and cash and property to the amount of Rs. 1,121-14½ taken away, he accounts for his not having been awakened by the thieves, by the supposition that he was enchanted. He called his neighbours (who fully bear out these facts,) and gave intelligence to the police which was delayed one day by a storm, the usual enquiries were made, the first person apprehended on suspicion was, No. 1, (he having been lately turned out of service by the plaintiff,) who made a confession implicating Nos. 2 and 3, and produced two pieces of cloth, which he said he found on the road; Nos. 2 and 3, were apprehended, who implicated all the others, with the exception of No. 6, who was caught in a very singular manner. A man by name Lal Mahomed, not apprehended, was overheard abusing his wife about some of the property, this was mentioned to the darogah, who, on making enquiry, discovered that some of the property was in the possession of No. 6, he was immediately taken prisoner,

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there is besides this evidence, that of three men who declare they heard and saw the prisoners consulting together before the robbery, which, by the way, I may say, I believe to be false.

The proofs against No. 1 are that he confessed in the mofussil and before the magistrate, he was named in the depositions of his companions and some of the property was found in his possession; before me, he could make no defence, but a denial and an insinuation that he was rendered stupid by smoking before he went to the magistrate, his witnesses can say but little for him.

No. 2. There are the same proofs against this man as the other, except that in his deposition he confesses to having been engaged in the actual burglary; before me, he of course denied, saying that he was forced to confess at the thannah and persuaded to do so before the magistrate.

No. 3. The same proofs as against others. This man appears to have been the most trusted of the gang, as the whole of the silver ornaments, to the value of about 395 Rs. were in his keeping, they were discovered buried in a common earthen pot in a field at some distance from his house, before me he denied, stating that the pot was buried by the police, and that his confessions were extorted, there were some slight marks as of beating with a switch on the man's back, but his witnesses could say nothing for him.

No. 5. The same proofs as against the above Nos. 2 and 3, except that no property could be found, this man is said to be the "*oastad*" or teacher of the rest, before me he denied and said that some thing like water was given him to drink before he confessed to the magistrate, which put him out of his proper senses, his witnesses gave him a fair character but nothing to clear him.

No. 6. The proof against this man, differs from that against the others, a conversation was heard about the property between one Lal Mahomed and his wife, on following it up, it appeared that three golden armlets had been given to him to keep, he was apprehended and the property found, to the value of more than 60 Rs.; he confessed in the mofussil and before the magistrate; before me he denied saying that he was taught by the darogah to confess in the foujdary, his witnesses were his own near relations who spoke well of him.

The case was tried by me with the assistance of a jury, they found Nos. 1, 2, 3, 5 and 6, guilty, in this I concur, and considering Nos. 2 and 5, guilty of burglary and stealing property to the value of more than 300 Rs. have sentenced them each to seven years with labor in irons; Nos. 1 and 3, I believe to have been also guilty of the same, but considering it only legally proved that they are guilty of detaining stolen property,

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knowing it to have been acquired by burglary, I also sentence them to seven years with labor in irons; No. 6, I consider to have been simply guilty of knowingly receiving stolen goods, I sentence him to five years with labor in irons.

The conduct of the police calls for some remarks, the darogah is said by some of the witnesses to have apprehended No. 4, and kept him three days at the thannah before sending him in, but this does not appear from the official papers, I should wish to bring this to the magistrate's notice, he can be guided by the man's character as to whether it is worthy of enquiry or not; Gopaul Chowkeedar appears to have behaved very well, it was owing to him chiefly that any of the party were apprehended and especially No. 6, I therefore direct a reward of 10 Rs. to be given to him.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The confessions of the prisoners in the foujdary fully justify the conviction. We reject the appeal.

PRESENT:

H. T. RAIKES, AND J. H. PATTON, ESQS., *Judges.*

TRIAL NO. 2.

GOVERNMENT

versus

MOHUN MEAH ALIAS MONIROODIN, (No. 11,) BHOLA KHAN, (No. 13,) KURIMOODIN, (No. 14,) OOMUR KHAN, (No. 15,) TUREEBOOLLAH SIRDAR, (No. 16,) NUSSIMOODDIN ALIAS SUMON MEERAH, (No. 17,) TAREEKOOLLAH TALOOKDAR, (No. 18,) ZEAHOOLLAH TALOOKDAR, (No. 20,) DERASATOOLLAH, (No. 22,) MONIROODIN, (No. 23, APPELLANT.)

TRIAL NO. 3.

GOVERNMENT

versus

MOHUN MEAH ALIAS MONIROODIN, (No. 11,) AMSURALLY, (No. 12,) BHOLA KHAN, (No. 13,) KUDIMOODIN, (No. 14,) OOMUR KHAN, (No. 15,) TUREEBOOLLAH SIRDAR, (No. 16,) NUSSIMOODIN ALIAS SUMON MEERAH, (No. 17.)

TRIAL NO. 7.

GOVERNMENT AND RAMKISHORE GOOHO

versus

MOHUN MEAH ALIAS MONIROODIN, (No. 11,) AMSURALLY, (No. 12,) BHOLA KHAN, (No. 13,) TUREEBOOLLAH SIRDAR, (No. 16,) NUSSIMOODIN ALIAS SUMON MEERAH, (No. 17,) TUREEKOOLLAH, (No. 18,) ZEAHOOLLAH, (No. 20.)

Backergunge.

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Case of MOHUN MEAH *alias* MONIROODIN and others.

In trials Nos. 2, 3 and 7, the prisoner Mohun Meah was convicted by the sessions judge, and the cases were referred to the Nizamut Court. The prisoner Moniroodin was convicted by the judge in trial No. 2, and sentenced to seven years' imprisonment with labor in irons. In all the trials the other prisoners were acquitted.

In trial No. 2, the conviction of Mohun Meah was upheld by the higher court. The appeal of Moniroodin was rejected, and his sentence confirm-

CRIME CHARGED.—*Trial No.* 2.—Riotously assaulting with intent to kill the officiating magistrate and the police, when in the execution of their duty, and thereby causing the slaughter of several men. *Trial No.* 3.—1st count, wounding Nehaloodin Mohamed, darogah, and Ram Singh, burkundaz, with intent to murder; 2d count, riot and forcible resistance of the police in the execution of their duty, attended with the severe wounding of Ram Singh, burkundaz, and Nehaloodin Mohamed, darogah. *Trial No.* 7.—Riot attended with the wounding of Attiaram Kebul Chung, chowkeedar, Daemally, Chukkoe, Boodhye, Poorno, Koch, Futtick, Fukeer Mohamed and Roop Singh.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

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ed. The evidence was clear against Mohun, and the charge against Moniroodin was supported by his own confession before the magistrate and by the gun shot-wounds on his body.

In trials Nos. 3 and 7, there is an analogy both in the evidence and the charge against Mohun Meah, with the case of his brother Gugun Meah, as stated in the Nizamut reports for February. Prisoner (Mohun Meah) sentenced to a *consolidated* sentence on his conviction in all three trials of sixteen years' imprisonment with labor and irons in banishment.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 14th July, 1855.

Remarks by the sessions judge.—Mohun Meah, the principal prisoner in these cases, is the brother of Gugun Meah; the cases in which the latter party was convicted are doubtless well known to the Court. A detailed account of them has been published in the Reports of cases determined in the Court in February last, pages 270 to 300, to which I solicit a reference.

Mohun Meah has been committed to take his trial in eight cases. Seven of these cases have been before the superior Court, and the same evidence which was considered by the Court, sufficient or insufficient for the conviction of Gugun Meah, has been adduced against Mohun Meah.

The new case, trial No. 2, is one of an unusual nature, the charge is 'riotously assaulting with intent to kill the officiating magistrate and the police, when in the execution of their duty and thereby causing the slaughter of several men.' The prisoners noted in the margin were committed. The *futwa* convicts No. 11, Mohun Meah, and No. 23, Moniroodin, and acquits the other prisoners. In this finding I concur, I have passed sentence myself on Moniroodin of seven years' imprisonment with labor in irons. As Mohun Meah has been convicted in two other cases of a serious nature and as the part he took in the serious outrage, which I am now reporting upon, was such as to make him a fit object for a sentence far beyond my competency to award, the papers of the three cases in which he has been convicted, are submitted for the consideration and orders of the Court.

No. 11, Mohun Meah.
,, 13, Bela Khan.
,, 14, Kurimoodin.
,, 15, Omur Khan.
,, 16, Turiboollah Sirdar.
,, 17, Nussimoodin alias Suman Meerah.
,, 18, Tureekoollah Talookdar.
,, 20, Zeahoollah.
,, 22, Derastoollah.
,, 23, Moniroodin.

Mohun Meah was a proclaimed offender, a reward had been offered for his apprehension. The police had made repeated but futile efforts to seize him. He had turned his brother Gugun's house at Singkhatee into a minature Sebastopol, and therewith a band of Furreedpore *latials*, well armed with spears and shields, he set the law and police at defiance. Petitions, complaining of the oppression of Mohun and his gang, kept pouring in on the magistrate, who at last determined personally to superintend the execution of the warrant for the apprehension of Mohun.

Before proceeding to Singkhatee, the magistrate called upon the Messrs. Morrell to assist him. Two brothers, Mr. Henry Morrell and Mr. Thomas Morrell, responded to this call; the public spirit thus evinced by them, the courage shewn by them, and the great value of the services rendered by them to the magistrate, have met with the special and well deserved acknowledgment of the Government.

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The following is a brief narrative of the case. On the 16th of December, 1854, at about 9 A. M., the magistrate entrusted to the darogah of thannah Tugrah a Perwanah for the apprehension of Mohun, the darogah was directed to proceed on ahead with his burkundazes in number from 16 to 18, and to attempt to serve the process; the magistrate, the two Messrs. Morrell, some chaprassies, five burkundazes and a naib attracted by curiosity, followed the darogah at a short distance. The magistrate and the Messrs. Morrell were armed with guns. Each gentleman had a spare gun. One of the Mr. Morrells had a third gun.

The party walked some two miles when they reached a *khal*, up to this time no resistance had been offered. Crossing the *khal*, they advanced up an avenue, leading to the house in which were Mohun and his followers. This avenue is described to be from 400 to 500 yards long, and the road as from twelve to thirteen feet broad lined on both sides by cocoanut trees with a deep ditch running on each side. The party proceeded some little distance, when they observed a party of from 100 to 150 men, armed with spears and their bodies protected and almost totally concealed by shields, advancing in a stooping position and in ranks four abreast.

The magistrate and the police called out to this party to retreat, it was also clearly explained to them that the magistrate had come in person to apprehend Mohun Meah; this had no effect, the attacking party still advanced, the magistrate then directed his party to retreat, keeping a bold face towards the attacking party. The magistrate's party retreated a few paces, the attacking party still advancing, at this crisis the magistrate and the Messrs. Morrell fired their double-barrelled guns, which were loaded with shot, at the spearmen directly in front of them, several men rolled over on the ground, they were for the most part hit about the legs, for they managed to get up again and limp off. Amongst those thus wounded was the prisoner Monirrodin, No. 23, who confessed before the police and magistrate to his having been engaged in the riotous attack upon the magistrate and the police, and on whose body, marks of shot-wounds were found, as deposed to by the medical officer.*

* Witness No. 23, Dr. W. Scanlan.

This first volley did not check the advance of the attacking party, though it may for a few moments have arrested it. The magistrate and the Messrs. Morrell were then compelled in self-defence to make use of their spare guns, which were loaded with ball. The three gentlemen fired almost simultaneously and several men of the attacking party were killed. It is difficult to state the exact number of men who were killed as no bodies were recovered. The magistrate, in his letter, describing the occurrence, states that some five men must have been killed and that he observed three men lying dead. Mr. Henry Morrell, in his

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deposition in my court, states that he saw four men whom he considered to be dead. Mr. Thomas Morrell deposes to having himself seen three bodies lying dead on the road leading to the house. Three, perhaps four men, must have lost their lives in this attack.

After this second discharge, the whole body of spearmen retreated towards the house occupied by Mohun Meah. The magistrate anxious to avoid further bloodshed, and doubtless feeling that the force at his disposal was quite inadequate for the capture of Mohun and his followers, retreated with his party and gained their boats. A gun was fired at them by the rioters without effect, they then left the place. The magistrate returned to the station and forwarded an application through the commissioner of circuit for troops, this application was not complied with. On the 22nd of December, Mohun Meah made his appearance in the court of the sessions judge and delivered himself up, the remaining prisoners were apprehended and sent in by the police.

The above is a brief narrative of the outrage. The prisoners deny the charge; No. 11, Mohun, in his defence states that the house in which it is stated that he and his followers were collected, does not belong to him; that none of the inhabitants of Singkhatee have given evidence in this case, he further pleads an *alibi;* Bela Khan, No. 13, states that he has a feud with Lalla Mitterjeet Singh, the proprietor of the ten-anna share of pergunnah Syudpore; that the witnesses who, in this case, have deposed to his, Bela Khan's, being present and aiding in the riotous assault upon the magistrate and the police, are the ryots and dependants of his enemy, the aforesaid Lalla Mitterjeet Singh; that none of the chuprasies or jail burkundazes who accompanied the magistrate mention his name as concerned in, or present at the riot, though these burkundazes were previously acquainted with him, he further pleads sickness at the time the riotous attack took place. Kurimoodin, No. 14, pleads an *alibi;* No. 15, Oomur Khan, states that Lalla Mitterjeet Singh owes him a grudge; that he left the zemindaree of Lalla owing to a small balance of rent. No. 16, Tureeboollah Sirdar, makes the same defence as No. 15; No. 17, Nussimoodin *alias* Sumon Meerah, urges that Lalla Mitterjeet Singh bears him a grudge, and that he was at home on the day of the riot. No. 18, Tureekoollah Talookdar, states that he was at home on the day of the riot; that it is improbable that he should be connected with Mohun Meah in this case as Gugun and Mohun had previously brought against him a case of murder, which was dismissed, and that much enmity existed between him and Mohun on this score. No. 20, Zeahoollah, who is a very old and decrepid man, states that Lalla Mitterjeet Singh purchased a talook of his and wished to enhance the rent; that there was enmity on this score, he

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pleads too an *alibi*. No. 22, Derasatoollah, pleads the enmity of the Lalla and an *alibi*. No. 23, Moniroodin pleads an *alibi* and retracts his confessions before the magistrate and the police.

Some of the witnesses to Mohun's defence depose to having seen Mohun one day in Ugran in a boat, others at a *hât*; such evidence is unsatisfactory. The evidence of the witnesses, noted in the margin,* clearly establishes that the prisoner. Mohun Meah, was present at, and ordering and directing the assault upon the magistrate and the police. The means resorted to in thus opposing the magistrate and his police in the legal discharge of their duties evince such a recklessness of consequences, that I can draw no other conclusion than that he was determined to attain his end at the cost of the lives of the magistrate, the police and the party who assisted them in the execution of their duty, I, therefore, in concurrence with the *futwa* of my law officer find the prisoner Mohun Meah, No. 11, guilty of riotously assaulting with intent to kill the officiating magistrate and the police when in the execution of their duty, and thereby causing the slaughter of several men, and deeming the consolidated sentence of fourteen years' imprisonment with labor in irons, which it is in my competency to award in the three cases in which I convict Mohun Meah, an inadequate punishment, I have specified the nature of the crimes proved against him and leave it to the Court to assign such punishment as they may deem proper, I consider it, however, my duty to state that whatever period of imprisonment the Court may deem proper to award, should be in banishment, for it is very desirable for the peace of the district that Mohun should not remain in the local jail. He is a man of much influence for evil, and every thing should be done to check this influence.

* No. 3, Amodin Chaprassy.
11, Chabur Dhopee.
4, Komul Singh.
6, Sumiroodin Chuprassy.
8, Dookhee Singh.
7, Sijudin Lalla, Duffadar.
9, Gunga Lall Misser.
10, Ramdhunny Singh.

The prisoner Moniroodin, No. 23, confessed before the magistrate and the police, his confessions have been proved by the witnesses noted in the margin.† He is a Furreedpore man and a *lattial* by profession. He was wounded with shot in the attack. The evidence of the witnesses to his defence prove this much, that the prisoner was seen by them sometime in the month of Poose at the Dimrenuggur *hât*. In concurrence with the *futwa* of my law officer, I convict the prisoner, Moniroodin, of the charge upon which he has been committed, and taking into consideration that he was hired by Mohun and acting under his orders,

† Mofussil confession
No. 21, Issurchunder Burmo Surma.
„ 22, Jugmohun Manjee.
„ 24, Chundro Paul.
Foujdary confession.
„ 25, Gholam Surwar.
„ 26, Wally Khondkar.

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sentence him to seven years' imprisonment with labor in irons, a punishment, I consider, adequate.

The evidence against the remaining prisoners is not satisfactory. The witnesses are ryots of Lalla Mitterjeet Singh, the proprietor of the ten-anna share of Syudpore. It is in evidence that the whole of the rabble, who accompanied the magistrate's party, fled immediately the spearmen of the opposite party advanced to the attack. None of the jail burkundazes, or the jail *dufadar*, who stood near the magistrate during the attack, mention in their evidence the names of any of the remaining prisoner, though the fact of some of the prisoners having been in jail before and being well known to the burkundazes would have enabled them, had the prisoners been really present to have deposed to their presence. The witnesses who mention the names of the remaining prisoners have, some of them, given the names of a very large number of men, there are also gross exaggeration and discrepancies in their evidence. These witnesses, though they ran away, describe with great minuteness where the principal prisoners were standing, how each was armed, how dressed, the very manner in which they enumerated the names of the prisoners in my presence, telling them off on their fingers, and each witness giving the names in nearly the same succession, proves to me that they have been well tutored.

In trial No. 3, the prisoners noted in the margin,* were committed. The particulars of this case are as follows. The magistrate had given orders for the apprehension of Mohun Meah and others on the information of Mohamed Ally, charging them with arson and plunder. The police were unable to accomplish their seizure and on recept of special orders from the magistrate, three darogahs with a large body of burkundazes and chowkeedars, assisted by some people of the ten-anna sharer of pergunnah Syudpore, proceeded to the residence of Gugun and Mohun, on the 24th January, 1854. The police were opposed by the brothers, who had collected a large body of armed men. In the attack upon the police the darogah of the Meragunge thannah was slightly wounded, a burkundaz, Ram Singh, witness No. 2, was so severely wounded with *soolfees* that his life was thought to be in imminent danger, the deposition of the medical officer shows that one wound in the groin was of so serious a nature, that he did not at one time think, there was a chance of his recovery.

* No. 11, Mohun Meah.
,, 12, Ammur Ally.
,, 13, Bhela Khan.
,, 14, Kurimoodin.
,, 15, Omer Khan.
,, 16, Tureebollah Sirdar.
,, 17, Nussimoodin.

The evidence against Mohun Meah, prisoner No. 11, is conclusive, he was well known to the police officers previous to the occurrence of the riot, and they could therefore have had no difficulty in recognizing and identifying him. The intent to kill

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is clear in the trial of Gugun the superior Court concurred with the previous *futwa* of the law officer and convicted Gugun in this case. The same evidence which was considered by the Court to be sufficient for the conviction of Gugun has been adduced for the prosecution against Mohun, and it is, in my opinion, amply sufficient. The defence of Mohun is, that he was ill with a severe pain in his foot on the day of the riot, five witnesses depose to having seen Mohun at his home some day in Magh, and that he was suffering from a pain in the foot. None of the witnesses can give the precise date. The *futwa* convicts, and I concur. I find the prisoner, Mohun Meah, guilty of, 1st count, wounding Nehaloodin, darogah, and Ram Singh, burkundaz, with intent to murder, and 2d count, riot and forcible resistance of the police in the execution of their duty attended with the severe wounding of Ram Singh, burkundaz, and the wounding of Nehaloodin, darogah, and leave the Court to award such consolidated punishment as they may deem adequate and proper.

The evidence against the remaining prisoners is not sufficient or satisfactory. The *futwa* acquits and I concur. My reasons for acquitting the prisoners will be given in the column of remarks in the statement of acquittals for the present month.

Trial No. 7.—In this case the same evidence is adduced against the prisoner, Mohun Meah, that was considered by the superior Court to be sufficient for the conviction of Gugun Meah; several of the witnesses were wounded with shot, though not severely, and the active part taken by the prisoner, Mohun Meah, in the riot is clearly established; Mohun pleads an *alibi*, four witnesses depose to having seen the prisoner, Mohun Meah, at Kewabooneah, but they cannot speak positively as to dates. In this country any number of witnesses to set up an *alibi* can be procured, I cannot give credence to such evidence. The *futwa* convicts the prisoner, Mohun, of the charge, riot attended with wounding, and acquits the rest of the prisoners, and in this finding I concur, and leave the superior Court to award such consolidated punishment as they may deem adequate. My reasons for acquitting the other prisoners in this trial, for whose conviction the evidence is insufficient, will be given in my remarks in the statement of acquittals for this month.

The prisoner, Mohun Meah, has been acquitted by me in concurrence with the *futwa* of my law officer in trials Nos. 1, 4, 5, 6, and 8, my reasons for acquitting him will be given in the column of remarks in the statement of acquittals for this month.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The evidence against Mohun Meah, in the cases Nos. 3, and 7, is the same as that preferred against his brother, Gugun Meah, for the same offences, and on this

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evidence Gugun Meah and others were convicted by the Court in February last. The witnesses have all along deposed to the presence of Mohun Meah, as being a leading person in these outrages, and we hold his conviction by the sessions judge to be good. In the case No. 2, the eye-witnesses depose directly to the presence of Mohun Meah when a most serious assault was made, upon the officiating magistrate of Backergunge and two European gentlemen who had accompanied him, by the known followers and adherents of Gugun and Mohun Meah. The magistrate at the time had gone to the house of Mohun Meah to arrest him, and there is no doubt that the magistrate's object was well known to the prisoner and that the resistance made was organised and predetermined by him. The circumstances of the case are such that a fair and valid presumption arises that he himself was present, for in no other way can the determined resistance of his adherents be accounted for. The credibility of the eye-witnesses is, therefore, not to be doubted, and his subsequent delivery of himself into the hands of justice in no way shakes the stability of the proof against him. The details of this case are fully set forth in the sessions judge's remarks and his conclusions are, in our opinion, warranted by the facts of the case. We convict the prisoner Mohun Meah in this case of participating in a riotous assault on the magistrate in the execution of his duty, and with reference to the convictions of the prisoner in this case and cases Nos. 3 and 7, sentence him to a consolidated sentence of sixteen years' imprisonment with labor in irons in banishment.

The prisoner Moniroodin, who has appealed, has been sentenced by the sessions judge to seven years' imprisonment in case No. 7. The confessions of this man, before the police and the magistrate, are supported by the existence of gun-shot wounds in his limbs which, in those confessions, are admitted by him to have been received in the riot with which he is charged. We see no reason to interfere with the conviction and sentence passed upon him.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

TRIAL NO. 3, FOR JUNE, 1855.

GOVERNMENT,

CHUNDEECHURN CHOTTOPADHIA AND ANOTHER

versus

OKHEELOODDEEN (No 23,) DUKEE MAHOMED (No. 24,) BAWOOL KARIGUR (No. 25,) NILU KARIGUR (No. 26,) SUMIROODIN (No. 27,) OSSIMUDIN (No. 28,) CUMIRUDDEEN (No 29,) FOYZOODDEEN (No. 30,) CULIMUDDEEN (No. 31.)

TRIAL NO. 1, FOR JULY, 1855.

GOVERNMENT,

SUROOPCHUNDER ROY AND ANOTHER

versus

OKHEELUDDEEN (No. 23,) DUKEE MAHOMED (No. 24,) BHYRUB BOONA (No. 40,) KOMIRUDEEN ALIAS KINAI (No. 41,) MYZUDDEEN, (No. 43.)

TRIAL NO. 2.

GOVERNMENT

versus

OKHEELOODDEEN (No. 23,) DUKHEE MAHOMED (No. 24,) BAWOOL KARIGUR (No. 25,) NILU KARIGUR (No. 26,) JAN MAHOMED (No. 34.)

TRIAL NO. 3.

GOVERNMENT AND GOLUCK PEISHKAR

versus

OKHEELOODDEEN (No. 23,) DUKHEE MAHOMED (No. 24,) BAWOOL KARIGUR (No. 25,) NILU KARIGUR (No. 26,) JAN MAHOMED (No. 34,) NEAMUT SHEIKH (No. 45.)

TRIAL NO. 5.

GOVERNMENT

versus

OKHEELOODDEEN (No. 23,) DUKHEE MAHOMED (No. 24,) BAWOOL KARIGUR (No. 25,) NILU KARIGUR (No. 26,) JAN MAHOMED (No. 34,) FUZUR MAHOMED (No. 46.)

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Prisoners were tried for dacoities committed at various times; Nos. 23, 24, 25, 26, and 34. were sentenced to a consolidated sentence, being convicted of dacoity in several cases, Nos. 25, and 34, to 7 years, and the rest to 14 years' imprisonment with labor and irons. The Court on appeal, upheld the sentences and convictions of the sessions judge, on the grounds of the confessions of the prisoners, implication by their associates, and the weakness of the evidence for the defence.

CRIME CHARGED.—*Trial No.* 3, *for June.* 1st count, Nos. 23, 24, 26, 27, 28, 29, 30 and 31, dacoity in the house of the prosecutors Chundeechurn Chottopadhia and Grishchunder Chotto-

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padhia and plunder of cash and property valued at Rs. 379-8; 2nd count, Nos. 23, 24, 26, 27 to 30, knowingly receiving or having in their possession portion of the property acquired by the above dacoity; 3rd count, Nos. 23, 24 and 26, having belonged to a gang of dacoits.

Trial No. 1. *for July.*—1st count, Nos. 23, 24, 40, 41, 43, dacoity in the house of the prosecutors, Shoroopchunder Roy and Haranundo Roy, and plundering therefrom property valued at Rs. 111-9-0; 2d count, Nos. 23, 41, and 43, knowingly receiving or having in their possession a portion of the plundered property acquired by the above dacoity; 3d count, No. 40, privity to the above dacoity and Nos. 23 and 24, having belonged to a gang of dacoits.

Trial No. 2.—1st count, Nos. 23, to 26 and 34, dacoity in the house of Ozirun Peshagur, and plunder of property valued at Rs. 33-4; 2d count, knowingly receiving or having in their possession portions of the plundered property; 3d count, No. 34, having belonged to a gang of dacoits.

Trial No. 3.—1st count, Nos. 23, 24, 25, 26, 34, and 45, dacoity in the house of Zibun Maljadah, father of the prosecutrix named Goluck Peshagur, since deceased, and plunder of property valued at Rs. 24-4-10; 2d count, Nos. 23, 25, 34, and 45, knowingly having in their possession, or receiving portions of plundered property; 3d count, No. 34, belonging to a gang of dacoits.

Trial No. 5.—1st count, Nos. 23 to 26 and 34 and 46, dacoity in the house of Modu Maljadah and plundering therefrom property valued at Rs. 8-14; 2nd count, Nos. 24, 25, 34 and 46, having knowingly portions of the plundered property in their possession; 3rd count, Nos. 23 to 26 and 34, having belonged to a gang of dacoits.

CRIME ESTABLISHED.—*Trial No.* 3 *for June*, 1855. Nos. 23, 24, 26, 27, 28 and 31, dacoity, and Nos. 29 and 30, knowingly receiving and having in their possession portions of the property acquired by dacoity

Trial No. 1, *for July*, 1855.—Nos. 23, 24, 40, 41 and 43, dacoity.

Trial No. 2.—Nos. 23, 24 and 26, dacoity, and Nos. 25 and 34, knowingly possessing plundered property.

Trial No. 3.—Nos. 23, 24 and 26, dacoity, and Nos. 25, 34 and 45, knowingly possessing plundered property.

Trial No. 5.—Nos. 23, 24 and 26, dacoity, and Nos. 25, 34 and 46, knowingly possessing plundered property.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. W. O. Malet, officiating sessions judge of Jessore, on the 27th June, 3rd and 12th of July, 1855.

Remarks by the officiating sessions judge.—Trial No. 3, for

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June, 1855. On the 16th November, 1854, the house of the plaintiffs was attacked by dacoits, the elder plaintiff was sleeping inside on his box, and the younger in the outer apartment. Awakened by the noise of a broken *tattee*, the elder sat up to listen, and heard his nephew the other plaintiff telling some one that if they caught the old man who was inside, they might get the property, but that he had nothing, hearing this and the dacoits proceeding to break into his part of the house, he made his escape out of the back door and called out for assistance; the other plaintiff also made his escape; after a time the villagers, and neighbours came, but the dacoits had done their work and departed; it is shewn that they were about 15 or 16 in number, but not one of them was recognised, they took off plunder according to the plaintiffs' account worth nearly 400 rupees.

Intelligence was sent to the police, who came and made the usual investigation, apprehending a man of the name of Urjoonullah (on the suspicion of the plaintiff), and afterwards searching his and the houses of other persons on a confession made by him, but without effect. This confession was made apparently at the instigation of other parties for spiteful reasons and even persisted in before the magistrate, but it is fair to the police to mention that the darogah in his report of 21st November, 1854, mentioned that much credit was not to be given to it, the man was detained by Mr. Mackay till 21st February, 1855.

Much trouble was taken by the police burkundazes, supposed to be good detectives, being sent from other thannahs at the requisition of the darogah, but nothing could be discovered.

On the 16th December, a man by name Jan Mahomed, having first gone to the plaintiff, made a statement to the darogah in which he mentioned the names of several persons who, he said, were bad characters, and in the habit of committing dacoity, and that he had seen them shortly before this dacoity in consultation at the house of one Jan Mahomed Karigur, and afterwards at a *hát*, that he had strong suspicion and that he gave this intelligence with the hope of reward.

On this information, the darogah apprehended several persons and searched their houses. One of the first of these confessed and implicated others that had before been named by Jan Mahomed; they in turn were apprehended and implicated others, and from the houses of nearly all of them, articles claimed by the plaintiff were taken out, some not claimed by the plaintiff in this case being detained at the suggestion of Jan Mahomed as the proceeds of other dacoities.

Of the prisoners sent in by the darogah, No. 23, Okheeloodin No. 24, Dookee Mahomed, No. 26, Nilu Karigur, No. 27, Simuruddin, No. 28, Osimoddin, No. 31, Calemoddin, persisted in their confessions before the magistrate, the rest denied;

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before me every one denied, either stating that their confessions had been extorted by force, or that what was written in their names had been so without their knowledge, and they were all, by their own accounts, honest men, getting their livelihood in a respectable manner by cultivation or handicraft; amongst the rest, Jan Mahomed, the informer, was sent in as a defendant by the darogah, but afterwards admitted as a witness by the magistrate. In the absence of direct evidence, I think it right to enter into detail.

No. 23 I have found guilty, but as he is in other cases, I reserved his sentence. The grounds of my decision are his confessions before both the police and the magistrate, which are more than usually substantial; the mention of his name by the witness, Jan Mahomed, and his implication by the depositions of the other prisoners, to which he can give no defence worth notice.

No. 24 I have found guilty for the same reasons as No. 23, and reserved his sentence for the same reason; his defence is the same, that he was at his own house, which is not proved by his evidence.

No. 26 is in the same list as the two foregoing, with this addition, that some of the plaintiff's property was found in his house, and he had given an article of wearing apparel to a chowkeedar which was identified as the property of the plaintiff; in his defence he tried an *alibi*, but failed; his sentence is reserved.

No. 27 has been found guilty for the same as Nos. 23 and 24; in his defence he said that his women were insulted, and tried to prove an *alibi*, but failed in both points; as he was only concerned in this one case, I have sentenced him to seven years with labor in irons.

No. 28 the same as the other, except that he is not named in Jan Mahomed's evidence, his defence, that he was in his own house, was not proved, though three witnesses cited by him gave their evidence; some property said to belong to the plaintiff was found in his house, but it is doubtful; still as there was no reason to doubt his confession, and he was implicated by the other defendants, I think there can be no doubt of his guilt and have sentenced him to seven years with labor in irons.

No. 29 was mentioned by Jan Mahomed as one of the consulting party, and is also implicated by the other confessions, but as he did not himself confess before the magistrate, there is not sufficient proof of his having been actually engaged in the dacoity, but some of the plaintiff's property was found at his place of residence, one item of which was a very peculiar black beaver cap. I have found him guilty of receiving stolen goods and sentenced him to three years' imprisonment with labor in irons; his defence of being in his own house was unsupported by

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evidence and one of his own witnesses denounced him as a dacoit.

No. 30, there is the same proof against this man as against No. 29, he tried an *alibi*, but failed to prove it. I have sentenced him to three years for receiving stolen goods.

No. 31 confessed before the magistrate and was implicated by one of his companions; in this court, he denied his previous confession but confirmed as it was by evidence and corroborated by that of his companion, I see no reasonable doubt but that it was true and have sentenced him to seven years with labor in irons.

Trial No. 1, *for July*, 1855.—The dacoity, in which the defendants in this case were accused of being concerned, took place so long since as the 31st May, 1854, but no clue could at that time be obtained. However, on an enquiry being made regarding another dacoity that had been committed in the adjoining district of Furreedpore, a man by name Jan Mahomed gave such information that some men were apprehended on another account, who in their confessions allowed they were concerned in this case also and implicated others; property was found which was claimed by the plaintiffs, the matter was re-enquired into and the end of it has been that the defendants are sent up for trial. The plaintiffs, who are uncle and nephew, and live together, were awakened out of their sleep during the night by the attack of the dacoits, who, they state to have been twenty or twenty-five in number with torches, but they cannot say whether they were disguised or not. The elder plaintiff with his wife and child escaped by the back door and called for assistance, but though joined by the nephew in their cries, no one came to help them until the mischief was done, and the dacoits had gone; no one was recognized, but property to the amount of upwards of 100 Rs. was taken, the plaintiff's boxes, &c., were broken open and two torches were left on the ground.

I proceed to take the defendants in order, first those I consider guilty and afterwards those against whom I think sufficient proof is wanting.

No. 23, Okeelooddeen was first mentioned in the deposition given by Jan Mahomed, he is also implicated by the confessions. He confessed himself both in the mofussil and before the magistrate, and some property of the plaintiff was found in his house. His defence is a denial, I consider him guilty, but as he is a defendant in three more cases before me, I have reserved his sentence.

No. 24, Dookee Mahomed, there is the same amount of proof against this man as No. 23, with the exception that no property was found in his house. His defence is the same and like the former unsupported; his punishment is reserved for the same reason.

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No. 40, Bhyrub Boona, was apprehended on his name being mentioned by one Shurreatullah, who was released by the magistrate. He confessed in the mofussil and before the magistrate. In this court he denied, stating that his confession was extorted, but this defence was not in any way substantiated; as he is only in this one case, I have sentenced him to seven years' imprisonment with labor in irons.

No. 41, Komurooddeen was apprehended from the deposition of Danesh Merdah. He confessed before the magistrate as well as in the mofussil, and some property was found in his house; before me he denied and said that he was absent, the property he said was his own and accounted for his confession by saying that he was beaten and promised reward, a part of his defence was well supported by his evidence, but not sufficient to invalidate that for the prosecution, I have sentenced him to seven years' imprisonment with labor in irons.

No. 43, Moyzuddeen, was apprehended on the deposition of Golabdee, No. 35, (acquitted.) He confessed before the magistrate and in the mofussil, and property was found in his house; in this court he denied and claimed the property as his own, his defence was entirely unsupported. I have sentenced him to seven years' imprisonment with labor in irons.

Trial No 2.—This was a dacoity committed so long since as September last, in the house of a female by name Ozeerun Peshkar, it was reported by the chowkeedar to the darogah, who deputed a jemadar to make inquiry; at that time Ozeerun denied that there had been any dacoity, or that any property had been carried off, and it was reported as an 'attempt at dacoity,' but some months afterwards when the darogah of Busnah in the Furreedpore district was making an investigation of another case, one of the defendants confessed to having been engaged with others that he mentioned, in this business also. On this, several of the defendants were seized and some of the property recovered; the Busnah darogah then sent for Ozeerun through the police of this district. She came, identified her property, and allowed that from 20 to 30 Rs. worth, had been taken, the investigation was then carried on in the usual manner, and the parties sent up to the magistrate, who, taking into consideration the first denial of Ozeerun, made Government the plaintiff, and even struck her out of the list of witnesses. She was afterwards sent for by me as I thought her deposition necessary.

From the evidence, it appears that the house was attacked at night by a party of dacoits who came in boats (the country at the time being under water,) they met with resistance, but plundered the house and took the jewels she had on her person from Ozeerun, they were, it appears, partially disguised, and none were recognised, owing to the water and want of boats; the neighbours that heard her cries for help (after the dacoits

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were gone) could not come to her assistance, but they went over in the morning, and saw the marks where the door had been broken in by blows of a *kodal,* and broken boxes, &c. &c., the property was fully and clearly identified as belonging to Ozeerun, with the exception perhaps of three brass dishes which, from the constant use of them by all classes, must of necessity always be uncertain ; they were, however, sworn to.

No. 23, defendant Okeeloodleen, confessed both in the mofussil and before the magistrate, and property was found in his possession, before me he denied, but had no defence, his sentence is reserved, he being in another case.

No. 24, Dookee Mahomed, there is the same proof against this man as the above. A part of the stolen goods, it is shewn that he gave to defendant No. 33, and kept a part himself; he denied before me, but could make no defence, his sentence is reserved, he being in another case.

No. 25, Bawul Karigur, confessed in the mofussil, was implicated by his companions, he denied before the magistrate and before me, but the property which was found in his possession, and which he claimed as his own, was sworn to by the evidence for the plaintiff and could not be identified clearly by his (defendants) witnesses, one of whom stated that one article was the property of a 3rd person, his defence is merely a denial. I find him guilty of possessing stolen property. His sentence is reserved as above.

No. 26, Nilu Karigur, a brother of the above, confessed before the darogah and the magistrate, was implicated by his companions and property found in his possession ; before me he denied and declared the property, a box, to have been given him by a brother, but had in reality no defence, it so happened that the box was a peculiar one, and was clearly shewn to be the property of Ozeerun. His sentence is reserved as above.

No. 34, Jan Mahomed Karigur; there is the same proof against this man as against his brother Bawul, No. 25, except that he did not confess in the mofussil, he states one article of property to be his own and another article to have been placed where it was found by some enemy, the rest of his defence is a mere denial and all is unsupported by evidence. I find him guilty of possessing stolen property. His sentence is reserved as above.

Trial No. 3.—The circumstances of this dacoity are the same as those of the one above, indeed, were it not that it was a separate house, it might be considered the same, the houses are adjoining each other, I therefore merely mention the points of difference. When the dacoity was committed, the plaintiff's father was in the house. She herself was absent. On her return she found her house had been plundered and her father dead. She made no complaint, nor had her father made one, but it was discovered in the same manner as mentioned above,

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and in the same manner the missing articles were found and claimed by the plaintiff as her property. The fact of the dacoity is proved by evidence, and though it is stated that the morning after the dacoity, the plaintiff's father, who was a very old man, denied having lost any thing, still the articles claimed are, for the most part, clearly identified as the property of the plaintiff.

I have found guilty six of the defendants and acquitted three, my reasons are as follows.

No. 23, Okeelooddeen, confessed in the mofussil and before the magistrate and property shewn to be the plaintiff's was found in his house; before me he denied, but he had no defence, and what he said was unsupported. This man as in other cases, so his punishment is reserved.

No. 24, Dookee Mahomed, confessed before the magistrate and in the mofussil; before me he denied, but could make no defence. His punishment is reserved.

No. 25, Bawul Karigur, several articles were found with him he confessed in the mofussil, and was implicated by several of his companions, he as usual denied before me, and tried to prove that the property claimed was his own, bringing witnesses to prove that it was so, but they differed from each other, and the defence broke down. I have found him guilty of having possession of stolen property knowing it to have been stolen, his punishment is reserved.

No. 26, Nilu Karigur, confessed before the magistrate and in the mofussil, before me he denied but made no defence, and called no witnesses, I have found him guilty, as he is in other cases, his punishment is reserved.

No. 34, Jan Mahomed Karigur, this man denied all through, but property was found near his house, he is the brother of the two last defendants, and it was at his house, it is said, that the consultation was going on, which led in the first place to the detection of these dacoities; he tried to account for the property saying that it had been placed there, but had no other defence, I find him guilty of having possession of property knowing it to have been stolen, his punishment is reserved.

No. 45, Neamut Sheikh,* confessed before the magistrate, and in the mofussil and property was found in his house; before me he denied; on referring to his confessions it appeared that he only confessed that he was taken, not that he went of his own accord to the dacoity, but he could not account for the property, I have found him guilty of knowingly receiving stolen goods. His punishment is reserved.

* This man was acquitted in case No. 5, on which account his punishment was reserved, being found guilty in this case only, I sentence him to three years' imprisonment with labor in irons from 12th July, 1855, for knowingly possessing stolen property.

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Trial No. 5.—This is a similar case to the one recorded as No. 2. It was committed on the same night by the same people, and in the same way, the person whose house was robbed declined to prosecute. The three cases Nos. 2, 3 and 5 might, indeed, have been made into one with Government the prosecutor for all and the sufferers as witnesses. The man Modu, whose house was robbed, at first declaring that he had lost nothing and only, on the property being found, appearing to claim it was not allowed by the magistrate to be either plaintiff or witness, but considering his evidence necessary, I sent for him when the trial came before me. The same general description of the dacoity as given in Nos. 2 and 3 applies to this case, no one was recognised, no cruelty was used, indeed, the owner appears to have got out before the dacoits got in, and property consisting of brass pots and pans to the amount of about 8 or 9 rupees was taken off, the neighbours could not come to assist, and even to them, it appears from the evidence, the man at first stated that he had lost nothing, though he afterwards allowed that he had. This being the last case on the file in which the defendants are concerned, I record the punishment of each person and merely refer to the former statements to shew, on what grounds I have considered them guilty, without again entering into the detail of the other trials, which will be found under each case, and in the separate statements pertaining to them, one of which is noted as No. 6, for the month of June and the others Nos. 6 and 8 of July.

No. 23, Okeelooddeen, this man confessed in the mofussil, and before the magistrate, he was first denounced by the informer, Jan Mahomed; before me he can make no defence in this case but a denial, his witnesses could not be found. This man has been found guilty in all five cases, vide trial No. 3 of June and trials Nos. 1, 2, 3 and 5 of July, being only simple dacoity without any aggravating circumstances, I have sentenced him to fourteen years' imprisonment with labor in irons.

No. 24, Dookee Mahomed, there is the same proof against this man as against No. 23, with the addition that some property of the person whose house was plundered was found in his house, in his defence before me he denied, and said it was false, that the property had been found in his house, three witnesses stated him to be a man of fair character, but they were not very near neighbours, nor did they know much of his affairs. This man has, as No. 23, been found guilty in all five cases, vide trial No. 3 of June and trials Nos. 1, 2, 3 and 5 of July, for the same reason as above, I have given him the same punishment, fourteen years with labor and irons.

No. 25, Bawul Karigur, confessed in the mofussil and some of the stolen property was found in his house. His defence was a denial, and the assertion that the property found was his own.

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He cited as witnesses some men, from their appearance not reputable characters, who identified the property as his, but the same men were also witnesses for No. 34 and No. 46, I could not credit them. This man has been found guilty in two other cases (vide trials Nos. 2, and 3,) I believe that this man went to the dacoity with others, but it is only proved that he consulted with others, and stolen property, for which he could not account, has been found in his possession, I have sentenced him to seven years with labor in irons.

No. 26, Nilu Karigur, a brother of the above, the same proofs as against Nos. 23 and 24, he made no defence but a denial, saying that he did not confess before the magistrate, but that the omlah wrote down what he had said in the mofussil. He cited no witnesses, he has been found guilty in three other cases, (vide trial No. 3, for June and trials Nos. 2 and 3, for July) I have sentenced him to fourteen years' imprisonment with labor in irons.

No. 34, Jan Mahomed the elder brother of the No. 2, last named, a very intelligent looking man. He has denied all through these cases both before the magistrate and before the darogah, otherwise the proofs are the same against him, as against his brother Bawal No. 25, viz., the information of Jan Mahomed Sheikh, the implication by his companions and the finding of the stolen property; in his defence he denied the facts and cited witnesses to prove his respectability, and that the property was his own, they were the same men that spoke for his brother Bawul, and for the same reason I could not credit them, he also mentioned as a reason for the denouncement of Jan Mahomed Sheikh that he had sheltered the latter's father from his son's anger, one witness stated for him that he had sheltered both father and mother! He has been found guilty including this, in three different cases and is said to be the headman, but proof is wanting on this point; I have sentenced him to seven years' imprisonment with labor in irons.

No. 46, Fuzzur Mahomed, was sent up in another case besides this in which he was acquitted, but in this case he could not satisfactorily account for some of the stolen property; his witnesses were the same as those that spoke for Nos. 23 and 34, I have sentenced him to three years' imprisonment with labor in irons.

This being the last of five cases against the same men, I feel myself called on to make some general remarks: in the first place the darogah of Busuah, Shibchunder Bose, of the 1st grade, is deserving of much credit for the persevering manner in which he conducted his inquiries, and I should have recommended him for reward had there not been so many mofussil confessions, which are always doubtful, and some illegal actions such as Bawul Karigur detained at the thannah from 17th December,

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till 2d January, and again, the seizing the wife of Golabdee &c. I am much indebted to the officiating magistrate of this zillah for the very clear manner in which he has drawn up the grounds of commitment column, in the different calendars, being five cases against the same men, and the confessions in one case having to be cited sometimes in a part and sometimes in all the others, might have created confusion, but the whole was drawn up so distinctly and plainly by Mr. Molony, that every thing could be seen at a glance, thereby saving both time and trouble. With regard to the cases themselves, I attribute the quantity of property recovered to the length of time that elapsed between the crime and the inquiry; the men, no doubt thought themselves safe and had therefore taken the property to their own homes, I have ordered a reward of 25 Rupees to Jan Mahomed Sheikh for his information.

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and J. H. Patton) We see nothing in favor of the prisoners who have appealed to this Court. The most of them confessed before the police and the magistrate, and those who did not so confess were implicated by their associates and property found in their possession. The witnesses to the defence of these prisoners have been discredited by the sessions judge, and every consideration is due to his opinion, as the case appears to have been patiently and carefully investigated by him, and his remarks contain very full particulars of all that is material to the guilt of the prisoners. We see no reason to interfere and uphold the convictions and sentences.

PRESENT:

A. DICK AND B. J. COLVIN, Esqs., *Judges.*

GOVERNMENT

versus

SONATUN MUNDUL SATGOPE.

Hooghly.

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Case of SONATUN MUNDUL SATGOPE.

Prisoner convicted on his own confession though denied in sessions; in consequence of several strong corroborating circumstances to its truth, from the records of three of the cases mentioned in the confession.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer Baboo Chunder Seeker Roy, deputy magistrate under the commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 13th July, 1855.

Remarks by the additional sessions judge.—The prisoner confessed before the commissioner for the suppression of dacoity to the commission of thirty-five dacoities. It was intended, had he adhered to his confession, to obtain him a conditional pardon, and retain him as an approver. In expectation that he would abide by his confession at his trial before the sessions, the charge was drawn up in the general way; without a detail of any particular crimes, the commission of which might go to form the proof of the general charge.

Two approvers named him in the same dacoity, one of them has since had his pardon cancelled and the original sentence of transportation has been carried out against him. There being but one approver, I have not thought it advisable to occupy time in giving a translation of his deposition It will be enough to state that the approver, Nobin Ghose, named the prisoner from the first, and that he was also named from the first by Mudoo Bagdee, before that person had any opportunity of communication with Nobin.

The prisoner's confession has been proved by the two witnesses before whom it was recorded, and has been read in evidence at the prisoner's trial, but of the thirty-five cases confessed to, eighteen were investigated at the time.

This confession is of course the chief evidence against the prisoner, but it is made considerably stronger by the existence of corroborative evidence found in the record of some of the cases confessed. The cases in which this evidence exists are three, viz.

1. A case of dacoity in the house of Sagur Chunder Chaterjah of Maina, on the night of the 24th July, 1847.

2. A case of dacoity on the house of Brojo Hajra of Bhogobanpoor, on the night of the 26th August, 1848.

3. A case of dacoity in the house of Bhurut Nundee of Seejeena, on the night of the 24th September, 1845.

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In the Maina affair a docoit by name Jadoo Khan was disabled and captured. He confessed the crime, named Sonatun, and died. A chowkeedar by name Mooktaram swore also that he recognised the prisoner and struck him a blow, some property appears also to have been found. The prisoner was however, released by the magistrate, with what propriety let the prisoner's confession say!

In the Bhogobanpoor affair three dacoits were captured in the act. Two of them confessed and named the prisoner, but he was again released by the magistrate. This dacoity he now confesses.

In the Seejeena affair, several men were arrested and confessed naming Sonatun. Thirty-five different articles of property were found in his house, and Bhurut Nundee recognised thirty of them as his property carried off in the dacoity. The prisoner was tried for this, but strange to say, he was acquitted at the sessions.

The dacoity in Kankorea of which an account in English is to be found in the papers of the trial of Ramnarian Roy, now before the (court), affords also strong corroboration of the approver's testimony that the prisoner was present in it. It appears from the papers of that case that the party in whose house the dacoity took place, met the prisoner in company with a number of men going in the direction of his house, in the early part of the night of the dacoity. This circumstance deposed to at the time, by the person who originally prosecuted the case, is a strong corroboration of the truth of the evidence of the approver that Sonatun brought a gang of men to aid in the commission of the Kankorea dacoity.

However, as already observed, the prisoner's own testimony to his guilt, is the main and the most conclusive evidence against him, he denies it at the sessions but there cannot be the slightest doubt that he did make it, and that it contains a true exposition of his numerous crimes.

I would convict the prisoner of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The prisoner's confession was carefully taken, and his signature affixed to each page in his own handwriting. Two witnesses have testified to its having been voluntarily given by him. A reference to the records of three cases of dacoity, confessed to by him, shews that he was named in them as prominently concerned, by the dacoits apprehended; and recognized under peculiar circumstances by witnesses; and his detail of those dacoities tallies with the account on record.

The mere denial of his confession before the deputy magistrate under the commissioner cannot therefore avail him. We convict him of the charge of belonging to a gang of dacoits and sentence him to transportation for life.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

NEYAMUTOOLLAH SHIKDAR (No. 5,) HUSSAIN SHIKDAR (No. 6,) NAYAMOODDEEN RAREE (No. 7,) KEYAMOODDEEN MANJEE (No. 8,) NUSSEEROODDEEN DHOLLEE (No. 9,) AZGUR HOWLADAR (No. 10,) AZIM JEMADAR (No. 11,) NEYAMUTOOLLAH HOLDAR (No. 12,) ATTAOOLLAH (No. 13,) ALLIMOODDEEN SHIKDAR (No. 14,) TORAB CHOWKEEDAR (No 15,) BOLLIMOODDEEN (No. 16,) MAHOMED KAYEM (No. 17,) MON GAZEE ALIAS MONIROODDI (No. 18,) ALLIMOODDEEN SHIKDAR (No. 19,) KAZIMOODDEEN DHOLLEE (No 20,) NASSIR MAHOMED KHONDKAR (No. 21,) AND TORAB SHIKDAR (No. 22.)

Tipperah.

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Case of NEYAMUTOOLLAH SHIKDAR and others.

A leader in affray in which one person was killed and two others wounded, sentenced to fourteen years' imprisonment with labor and irons in banishment.

CRIME CHARGED.—Affray attended with the culpable homicide of Azgur and wounding Roshun and Khoosa Gazee.

Committing Officer.—Mr. F. B. Simson, officiating joint magistrate of Noacolly.

Tried before Mr. E. Radcliffe, officiating sessions judge of Tipperah, on the 11th July, 1855.

Remarks by the officiating sessions judge.—The cause of reference is a difference of opinion between the law officer and myself, regarding the culpability of Neyamutoollah Shikdar, (prisoner No. 5,) the former considering him innocent, whereas I am of opinion he is guilty of the crime charged.

Before giving a narrative of this affray, it is necessary for me to state that on the part of the prisoners the question of jurisdiction was disputed, Chur Deguldee, the spot where it occurred, being said by them to be situated in Backergunge. The affray occurred on the 12th March, the darogah of Mendigunge, under the jurisdiction of that district, finding the spot to be in Noacolly, retired from the investigation. The question was not raised till the 5th April, when the magistrate of Backergunge, on the representation of his sherishtadar, addressed a proceeding to the joint-magistrate of Noacolly, the deputy magistrate of Dukhinshabazpore, who proceeded to the spot, declares the Chur to be situated in Naocolly, and the sketch annexed to the *muthee* proves the same. The joint-magistrate, on the 5th May, informed the magistrate of Backergunge that he was almost certain that the crime occurred in Noacolly, that if, nevertheless, he entertained a different opinion, he hoped he would not delay in replying; from the record, it appearing that no answer had been received, silence was interpreted into consent, and with advertence to Construction No. 694, the objection to this court's jurisdiction has been overruled.

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The first prosecutor states himself to be the gomashta of Jagomaye Dabia; that on the 29th Phalgoon last, he was collecting rent from certain ryots, when he heard the '*nakarah*,' sounded at 10 A. M. in the direction of Doorgah Dass Sein's kutcherry; that on going out of his kutcherry be saw all the prisoners with three hundred or four hundred men coming in the direction of his house, that he and the ryots cried out for mercy, when, by order of Neyamutoollah, (prisoner No. 5,) Joynuddin, (absent) killed Azgur with a spear, and Roshun Allee and Koosha were wounded; that having seen this, he managed to escape when the prisoners and others plundered his house or kutcherry till evening.

Second prosecutor, Rumeezoollah, the father of the deceased, Azgur, declares his son to have been killed in the affray and to have been told that Joynuddin had killed him by order of Neyamutoollah, (prisoner No. 5.)

All the prisoners pleaded *not guilty*.

The eye-witnesses, noted in the margin,* adhere to much the same story, that they were ryots of Musst. Jagomaye; that 1st, prosecutor's kutcherry was attacked by two hundred to two hundred and fifty men armed with sticks, spears, &c.; that they came accompanied by Bulloram burkadaze, witness No. 12; that prisoner, No. 5, directed the attack, when Joynuddin killed Azgur with a spear-wound on the chest; and Keynuddeen, prisoner No. 8, inflicted a spear-wound on the left breast of Roshun Allee, witness No. 1; and Allimuddeen Shikdar, prisoner No. 14, slightly wounded Khoosha Gazee, witness No. 2, on the podex.

* 1, Roshun Allee.
2, Koosha Gazee.
3, Allabux.
4, Johirooddin.
5, Hassim.
6, Kynuddi.
7, Johnuddin (2d).
8, Uzmutoollah.
9, Izutoollah.

Bulloram burkundaz, witness No. 12, deposes that Neyamutoollah, prisoner No 12, having complained that 1st prosecutor, Chand Gazee, had collected a tumultuous assemblage, he was directed by the darogah of Mendigunge, on 29th Phalgoon, to proceed to Chand Gazee's house and apprehend him; that having taken Torab chowkeedar, prisoner No. 15, along with him, he was informed that Chand Gazee was at home, and if he went immediately, he could capture him; that he, Neyamutoollah Holdar, prisoner No. 12, and Torab chowkeedar, prisoner No. 15, went there, but did not find the first prosecutor, but saw several persons there, who told Neyamutoollah, prisoner No. 12, that he had falsely complained to the magistrate of Backergunge. That on this, Neyamutoollah, prisoner No. 12, cried out, when seventy or eighty armed men rushed out of Doorgadass Sein's kutcherry (which is on the opposite side of a *khal*, not more than three hundred yards distant) and saw them attack the 1st

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prosecutor's house; that he endeavoured to restrain the assailants without effect; that prisoner No. 15, stood by him some four or five *russees* distant from the affray.

Neyamutoollah, prisoner No. 5, says he went on 26th Phalgoon by water to Burrisaul; that he arrived there on the 28th and returned on the 6th Cheyt; that he went to obtain an unstamped copy of a reply in some civil suit; that as he gave evidence on the part of Doorgadass Sein and came with the ameen to measure this Chur Deguldee which has been lately decreed to the Sein's, the prosecutor bears him enmity.

Hassim Shikdar, prisoner No. 6, says he was at Ariff's house in Oodeypore, about four miles distant; that he is a ryot of Doorgadass Sein's and thus the charge.

Nayamuddeen Rarree, prisoner No. 7, says, that Doorgadass Sein's kutcherry was attacked; that he was wounded and that as he was the Sein's ryot, he was accused.

Kymuddeen, prisoner No. 8, declares, he was at Kooyechamara at noon of the 29th Phalgoon and returned home in the evening.

Nusseerooddeen Dhollee, prisoner No. 9, Azgur Hawaladar, prisoner No. 10, and Allimooddeen Shikdar, prisoner No. 14, admit to having seen the prosecutor's side attack the Sein's kutcherry.

Azim Jemadar, prisoner No. 11, Attaoollah, prisoner No. 13, Bolluddeen, prisoner No. 16, Mahomed Kyem, prisoner No. 17, Mon Gazee, *alias* Moniruddeen, prisoner No. 18, Allimuddeen Shikdar, prisoner No. 19, Kazimuddeen Dhollee, prisoner No. 20, and Nassir Mahomed Khondkar, prisoner No. 21, desire to establish *alibis*.

Neyamutoollah, prisoner No. 12, says, that he accompanied Bulloram Singh burkundaz, witness No. 12, and Torab chowkeedar, prisoner No. 15, to apprehend Chand Gazee, that he was taken to Doorgadass Sein's kutcherry and there beaten.

Torab chowkeedar, prisoner No. 15, that he was taken by the burkundaz, and Torab Shikdar, prisoner No. 22, declares enmity to be the cause of the accusation; that Chand Gazee wished him to give evidence on his side; that on refusal, he was made a prisoner.

The evidence of witnesses Akbur Putwaree No. 28, Kymuddin Sirdar, No. 30, Mahomed Hossein Putwaree No. 31, for the defence of Neyamuttoollah Shikdar, prisoner No. 5, is very inconclusive, the *alibi* set up is by no means proved. The testimony of witnesses Koromoollah No. 37, and Moteeoollah, No. 38, know nothing regarding Hussein Shikdar, prisoner No. 6; the evidence* on behalf of Neyamuddin prisoner No. 7, although it corroborates the defence regarding his being as-

* No. 40, Mohummud Hossein.
,, 41, Komerooddin.
,, 42, Komerooddin, 2nd

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saulted by the opposite party, shews the prisoners' complicity.

Mohuddee, witness No. 43, a near relative and Jeebun Karree, No. 44, an intimate friend, declare that in the morning prisoner No. 8 was at Kooyechamara, a place about a hundred yards distant; prisoners Nos. 9, 10, 12, 13, 14, 15, 17, 19 and 21, call no evidence in support; the evidence* of prisoner No. 11, are relatives, and endeavour to prove† *alibis* in his favour, but fail; prisoner No. 16, only calls one witness No. 62; the defence of prisoner No. 18, witnesses Nos. 71 and 72, is merely supported by relatives; prisoner No. 20, endeavours to prove an *alibi*, but fails; witness Nos. 84, and 59 the cousins of prisoner No. 22, corroborate his statement, but, in my opinion, the defence set up is incredible.

* No. 50, Daoree.
,, 51, Burkutoollah.

† ,, 77, Mohozom.
,, 78, Komirrooddin Raree.

The civil assistant surgeon deposes that Azgur died in hospital on the 22nd March, after lingering there four days: that death was caused by perforation of the lungs by some sharp-pointed weapon, such as a spear; that the wound on the person of Hoshun Allee was not of a dangerous nature, being external to the ribs; that it was probably caused by the same kind of instrument as that which resulted in Azgur's death.

It appears that the *chur* has been lately decreed by the sudder to Doorgadass Sein, and presuming on that decree, his party threatened to take the rent of the share claimed by Jagomaye Debia; that prisoner No. 13, obtained the aid of the police, and with a burkundaz from the Mendigunge thannah proceeded to the Chur separated from Ooturshabazpore, in Backergunge, by a narrow *khal*, in the opposite bank of which are both parties' cutcherries. I agree with the joint-magistrate in thinking that the applications for assistance, made at Backergunge, were instituted to give a legal colour to the proceedings of prisoner, No. 12, for it is clear from the evidence on record, that a large party was assembled at the Sein's cutcherry to carry the day at any risk. The prisoners attempt to prove a mutual affray, but that circumstance if proved would not render them less guilty, but the contrary was the case, for from the deputy magistrate's proceedings, dated the 25th March, 1855, it is clear that the Sein's cutcherry remained intact and no violence was offered by Chand Gazee as the Seins are so desirous to prove.

After a careful consideration of this case, I am of opinion that all the prisoners, besides prisoner No. 15, are guilty; the law officer considers all guilty, but Nos. 5 and 15. I think by an analysis of the evidence, it will be found that prisoner No. 5, is the principal in bringing about the affray, and, therefore, with reference to his intimate concern in the affair, which terminated

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so fatally, I would recommend his imprisonment with labor in irons for six years and the imprisonment of Nos. 6 to 14 and 16 to 22 to five years with labor.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The Court concur with the sessions judge in convicting the prisoner Neyamut Sheikh, No. 5, against whom the evidence is clear and satisfactory and cumulative. He is proved to have been the leader, and to have given the order for commencing the attack in which one person was killed and two others wounded His guilt, therefore, is heinous, and we sentence the said prisoner No 5, Neyamutoollah Shikdar, to fourteen years' imprisonment with labor in irons in banishment.

Of the other prisoners who had been convicted and sentenced by the sessions judge, we confirm the convictions of the prisoner Hussun Shikdar No 6, Neyamooddeen, No. 7, and Kaimooddeen Manjee, No. 8, and the sentences passed on them.

The rest of the appellants we acquit and direct their release, the evidence against them being doubtful.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND OTHERS

versus

GOLUCK CHUNG (No. 6,) BENGOO CHUNG (No 7,) URJOON CHUNG (No 8,) MIRTOONJOY CHUNG (No. 9,) LEBOO CHUNG CHOWKEEDAR (No. 10,) JOOGUL CHUNG (No 12,) NARAIN CHUNG (No. 13.)

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CRIME CHARGED.—Nos 6 and 7, 1st count, attempting to murder Sheikh Bengoo, by striking him with their *daos;* 2nd count, Nos 6 to 10, 12 and 13, riotously attacking the houses of the prosecutors and carrying off and beating Bengoo so severely that his life was endangered, and also assaulting the rest of the prosecutors; 3rd count, being accomplices in the above crimes.

The evidence in this case was conflicting, and for that reason, as well as because it seemed likely that the prisoners had re-

Committing Officer.—Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 12th September, 1855.

Remarks by the sessions judge.—The prosecutor, Bengoo, stated that his house was attacked by the prisoners and himself dangerously wounded, another prosecutor (since dead) having been also severely beaten. He ascribed the assault to dispute

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about land, but admitted that he had quarrels about trespasses committed by his cattle.

The statement of the prosecutor, Bengoo, was corroborated by six eye-witnesses* but there was considerable discrepancy in their evidence, some saying that Rajchunder and Leboo Doss (prisoner* No. 11,) were the leaders, and gave orders for the attack, others giving the name of Rajchunder only, and stating they had not seen Leboo Doss. They said the quarrel was about land. They however generally agreed in saying that Goluck Chung, prisoner No. 6, had wounded Bengoo.

* No. 1, Sheikh Khedoo.
2, Sheikh Punaulla.
3, Sheikh Himmut.
4, Sheikh Aureef.
5, Newaz.
6, Dengoo.

The prisoners pleaded *not guilty* throughout, and Mirtoonjoy, No. 9, produced evidence (witnesses Nos. 24 and 28, and others) to show that it was his, the prisoner's house, which had been attacked by the prosecutors and their witnesses.

The law officer acquitted the prisoner Leboo Doss No. 11, and convicted all the others.

I concur in the *futwa* so far as regards Goluck Chung and Leboo Doss, Nos. 6 and 11, but not as regards the other prisoners.

There can be no doubt that Bengoo was dangerously wounded, and other persons beaten, but I have great doubt whether the disturbance occurred in the manner stated by the prosecutors. It is suspicious that the prosecutors and their witnesses should be all Mussulmans, and the prisoners and theirs all Hindoos; although it is said there is no quarrel between the sects in the village. The witnesses for the prosecutor differ considerably from each other, and also from their previous depositions before the magistrate, a quarrel about land is asserted to be the cause of the assault, but no evidence is adduced, though if the *benamee puttah* exists, it ought to be in possession of the prosecutor. Quarrels about damage to crops by prosecutors' cattle are admitted. The witnesses for the prosecutors state, that Bengoo was taken away from his own house to that of the prisoner, Mirtoonjoy (No. 9,) but this does not seem probable. If prisoners had done so, they would most likely have detained the prosecutor to prevent his making a complaint. The story told by the prisoners' witnesses, Nos. 24 and others, seems to me more consistent and worthy of credit, and I believe, that the attack was made on the prisoners, by the prosecutors and others, and that it was to account for Bengoo having been in the prisoner Mirtoonjoy's house, that the story of his having been carried off was invented. The disturbance took place on Sunday, and Mirtoonjoy says he attempted to complain on that day, but

(Margin note:) ...ceived provocation in a dispute about land, they were acquitted, with the exception of No. 6, who was convicted of an assault attended with unjustifiable violence and sentenced to three years' imprisonment with labor, commutable to a fine of 30 rupees.

* Acquitted by the lower court.

1855. October 31. Case of GOLUCK CHUNG and others.

was not allowed, but he certainly presented a petition on Monday following.

I would acquit all the prisoners, except Goluck, No. 6, as it appears to me, they repelled an illegal attack, but from the severe nature of the wounds inflicted, Goluck Chung used much more violence than was necessary for the purpose, and I have sentenced him accordingly.

I suggest that it may be convenient if the Court will consider the sentence passed on Goluck Chung. He will, in all probability, appeal, and if the *misl* be in the mean time returned to Dacca, it will require to be again dispatched, and the Court to look twice through the evidence

Remarks by the Nizamut Adawlut —(Present: Messrs. H. T. Raikes and J. H. Patton.) Where the evidence is so opposed, it is very difficult to determine to which side credibility should be given. The cause of quarrel, however, as stated by the prisoners, seems the most probable version of the case and is most favorable to the prisoners, the Court are willing therefore to allow due weight to it, and concur with the sessions judge in releasing the prisoners, with the exception of Goluck Chung, whom they convict of assault on the prosecutor, Bengoo, which, even taking into consideration all that is favorable to the prisoner, was attended with unnecessary violence.

We sentence him as proposed by the sessions judge, to three years' imprisonment with labor or fine of 100 Rs. in lieu thereof, payable within one month.

PRESENT.

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT AND FERASUTOOLLAH

versus

BAHAROOLLAH MULLICK (No. 1,) KHYROOLLAH MULLICK (No. 2)

1855. October 31. Case of BAHAROOLAH and another.

The Court, on appeal upheld the conviction of the addi-

CRIME CHARGED.--Wounding the prosecutor with intent to murder him.

CRIME ESTABLISHED.—Severely wounding the prosecutor.

Committing Officer.—Mr. A. Hope, joint-magistrate of Baraset.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 7th May, 1855.

Remarks by the additional sessions judge.—It seems that the prosecutor and the prisoners, who are nearly related, and live in the same homestead, are on most unfriendly terms. Frequent

lawsuits, in connection with their joint-estate, have produced a feeling of animosity on the part of the prisoners against their relative, which makes it not at all improbable that they were the parties who so cruelly assaulted him. It is in evidence that on the day of the occurrence, the prosecutor went on some private business of his own to the village of Agurdaree. He was accompanied by witness No. 1, and before setting out he instructed his servant, witness No. 2, to come and meet him, if he should be late in returning. Evening having set in, the latter went to Agurdaree and fell in with the prosecutor, and his companion, witness No. 1, coming towards home. The three were walking in a line, one before the other, when they were met by the two prisoners who, on interrogation, mentioned their names and what they were going upon, but they had scarcely done this, when they both sprang upon the prosecutor with knives in their hands. Witness No. 2, ran off, but witness No. 1, seized the prisoner No. 2, after he gave his first blow. He was, however, unable to hold him, and prisoner No. 1, rejoining his companion both of them chased the prosecutor, striking him with their knives on his head, shoulder and other parts, till he obtained a refuge by running into a neighbour's house.

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October 31,

Case of BAHAROOLAH and others.

tional sessions judge and his sentence of seven years' imprisonment with labor and irons on each prisoner. There seemed no reason to doubt the evidence for the prosecution, and there was evidently no time for tampering with the thannah depositions (as averred by prisoner No. 2) as the mohurrir forwarded the statements at once.

These facts are sworn to by witnesses Nos. 1, 2 and 3, the last being the person into whose house the prosecutor ran to escape from the prisoners.

Other witnesses* depose to having seen the two prisoners leaving the premises of witness No 3, immediately after the occurrence. It is, however, plain that, if the chief witnesses have stated the truth, these latter witnesses could not have seen the prisoners, when *they first* ran off from the premises where the prosecutor had sheltered himself, still their evidence is easily reconcilable with fact. The prisoners admitted that they went to the house of witness No. 3, on hearing an uproar there. If they did go, and it is probable that they did, as their appearance on the spot with other enquirers was calculated to disarm suspicion, then nothing is more probable than the witnesses, Nos. 10, 11 and 12, did really see them leaving the place, not however, for the first time, but for the second. Without this explanation, the evidence of these latter witnesses is utterly irreconcilable with the statements of the witnesses who were eye-witnesses to the assault.

* Nos. 10, 11 and 12.

The defence of the prisoner No. 1, is, that the prosecutor has brought this accusation against him out of spite. The prisoner No. 2, affirms the same in his answer and further avers that the deposition of the witnesses, as originally recorded by the thannah mohurrir, was altered at the instigation of the zemindar.

Two thannah peons so far support this statement as to say that the witness No. 3, denied before the mohurrir that she was aware who the assailants of the prosecutor were.

1855. October 31. Case of BAHAROOLAH and others.

I believe this statement to be an untruth. It is evident that the prosecutor was badly wounded, and that some one must have done it. The prisoners were the parties named as the assailants from *the very first*, and the prosecutor and the two chief witnesses accused them directly the mohurrir arrived to investigate the case. There was no time for tampering with the depositions, for the mohurrir forwarded his papers promptly, what he did one day came under the magistrate's inspection the next. I see no reason to doubt the fact alleged that the prisoners committed the assault The gratification of revenge was probably the motive. The weapons used have not been found, but from the superficial nature of the wounds generally the weapon was probably a small bladed knife. The wounds were, however, a great many in number and some were rather severe. Still I do not think the facts disclosed evince a clear intention on the part of the prisoners to take life, it is more likely that the object of the attack was to do some injury to the prosecutor. The *futwa* convicts the prisoners of severely wounding the prosecutor, and coinciding in this, I sentence them both to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Fuqeer Ahmed, on the part of the prisoners, has argued that the prosecutor had many enemies besides the prisoners; that the witnesses on his part are his own servants, and do not agree in their evidence as to the reason of their being together on that night, or as to the *particular wounds* inflicted by each of the prisoners. The Court, however, see no reason to doubt the truth of the evidence in the case. There is no doubt that the prosecutor and his gomashta were severely wounded, or that the prosecutor and his witnesses were able to identify their assailants, and had other parties assaulted them through enmity, there is no reason why they should have let them escape and implicated the prisoners in their stead. There was evidently no time for them to concoct a case against them and we see no reason to interfere with the sentence passed upon them.

SUMMARY CASES.

PRESENT :

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

THAKOORDASS KHAURAH MOOKHIA.

Midnapore.

1855.

October 12.

Case of TAKOORDASS KHAURAH MOOKHIA.

The prisoner in this case belonged to the village police. He took a bribe from the father-in-law of a woman, who had come to a violent death, and sent a false report to the regular police that she had been drowned. Convicted at the sessions of being an accessary after the fact of murder. The conviction was quashed. Held by the higher Court that the prisoner was only amenable to the charge of extortion and neglect of duty. To constitute accessaryship after the fact, there must be knowledge of the crime, and assistance to

CRIME CHARGED.—Accessary after the fact of the murder of Musst. Pudda, in having taken from witness No. 7, the father-in-law of the deceased, Musst. Pudda, a bribe of Co.'s Rs. 25, with the intention of either causing the release of the defendants, or of creating some confession in that case by giving out himself, or causing to be given out that the deceased died from drowning.

CRIME ESTABLISHED.—Accessary after the fact of murder.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 18th July, 1855.

Remarks by the sessions judge.—This trial is supplementary to that held in the month of June. Vide statement No. 6, for that month, commitment No. 6. From the evidence then adduced, it appeared that Sreemutee Chundra and Sreemutee Soodhee assaulted the wife of Srimunt Sahoo with their fists from the effects of which she died, and that the prisoner Sreemunt Sahoo threw the body into a *khal*, and subsequently brought it back to his own house and concealed it. The prisoners in the present trial Thakoor Doss Khaurah who is one of the police of the village, then called at Sreemunt's house and told his father that he was aware that his daughter-in-law had come by a violent death, and that if he, Gour Sahoo, wished to escape the consequences of a true report being made to the thannah he must pay 100 Rs. Gour Sahoo accordingly gave him 25 Rs. in cash, and 19 *buttees* of oil-seeds the latter were carried by the prisoner to the granary of the witnesses No. 10, Hateeram Sahoo who locked them up and kept the keys, and when the darogah arrived at the spot, the prisoner restored both, the 25 Rs. and the key of the granary; all these circumstances are fully established by the evidence for the prosecution.

The prisoner in his defence does not deny that he received the 25 Rs. from Gour Sahoo, but pleads that he took the money to meet the expenses incurred in the mofussil inquiry such as providing food, &c., for the police, sending in the body to the station, &c. &c., and cites witnesses to prove that the money was not taken from Gour Sahoo till *after* the arrival of the police jemadar on the spot to conduct an inquiry. The prisoner ig-

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the felon.

In the present, case there was only *suspicion* of murder. The perpetrators were unknown, and the man from whom the prisoner took the bribe, was in no way implicated.

nores altogether the fact proven by the prosecution that he also took sixteen battees of seeds of different kinds, and does not attempt to account for the manner in which they were disposed of. The report first made at the thannah, by the parties whom the prisoner sent there, was to the intent that the deceased had been drowned; all allusion to death *by violence* being carefully suppressed. It was not till after the arrival of the jemadar at the spot that the discovery was made by him, and a report made accordingly to the darogah that from the appearance of the body there were grounds for suspecting that the deceased had died from ill-treatment. The presumption from the evidence is unavoidable that the prisoner, after having discovered the cause of the deceased's death, demanded and received a consideration in money and grain from Gour Sahoo to make a false report, that he did accordingly wilfully and knowingly cause a false report to be made at the thannah, with a view to screen Sreemunt Sahoo and others from the consequences of the crime they had committed. The assessors declare the prisoner guilty of the charge on which he is arraigned. I concur in this finding. The prisoner in his capacity of mookhia was responsible for a faithful report of murder to the thannah. He caused a false one to be made and his receiving 25 Rs. and nineteen battees of seeds from Gour Sahoo, at the time, could have been for no other cause than to conceal what he was, as a police officer, bound to disclose. He is accordingly sentenced (with reference to the penalty which has been awarded to Sreemunt Sahoo, who has been convicted and sentenced for homicide) to 18 months' imprisonment and to pay a fine of 25 Rs. within one month from the present time in lieu of labor, in default labor to be exacted.

Resolution by the Nizamut Adawlut—(Present: Messrs. H. T. Raikes and J. H. Patton) No. 899, dated 12th October, 1855.

The prisoner is charged with being an accessary after the fact of the murder of Musst Puddo, and has been convicted of the crime charged by the sessions judge and sentenced by him to eighteen months' imprisonment, but the sessions judge has exceeded his competency in passing sentence on such a finding. He should have referred the case to this Court for final orders.

From the remarks of the sessions judge in this case, however, it appears to us there were no grounds for charging the prisoner with the above offence. The conviction which followed must necessarily be quashed. The prisoner belongs to the village police and having heard that a woman named Musst. Puddo had come to a violent death, he persuaded her father-in-law, if he wished to escape any enquiry, to give him a bribe of 20 Rs. and some grain. He then sent information to the regular police that the woman had been drowned. This might be made the ground of a prosecution against him for neglect of duty and

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Case of TAKOURDASS KHAURAH MOOKHIA.

corruption, but the father-in-law was in no way implicated in the death of Musst. Puddo, and the object was not personally to assist the culprit, but to extort money from the father-in-law by exciting his apprehensions. To constitute accessaryship after the fact, the accessary must have knowledge of the crime and personally aid or assist the felon in escaping the consequences. In this case the prisoner only heard of the suspicious death of Puddo and, for the reasons stated, neglected to report it. This duty the law has imposed upon him as mookhia of the village, but his evasion of it will not render him an accessary after the fact to a murder which was at the time only a matter of *suspicion*, and the actual perpetrators of which were not known to him.

The Court, therefore, quash the present conviction, and, with reference to the above remarks, leave the proper authorities to take such further steps as they may deem necessary.

PRESENT:

H. T. RAIKES AND J. H PATTON, ESQS., *Judges*.

SHEIKH BEKUN

versus

GOBINDPERSHAD DUTT, WHELARAM NÀG AND KOTOO CHOWKEEDAR.

Sylhet.

1855.

October 13.

Case of GOBINDPERSHAD DUTT and others.

In this case the judge had, on appeal, released three persons who had been tried by the magistrate, and had also ordered the release of twenty-seven other persons, *who had not appealed*, but were connected

This case was referred to the Nizamut Adawlut, under Section 5, Act 31, of 1811, by Mr M A G. Shawe, sessions judge of Sylhet, on the 19th September, 1855, with the following letter.

At the request of the magistrate, I have the honor to forward herewith, the papers of the above case for the consideration and orders of the Court of Nizamut Adawlut. I consider, for the reasons set forth in my decision in this case, that a review of my judgment is unnecessary.

From T. P. Larkins, Esq., magistrate of Sylhet, to M. A. G. Shawe, Esq., officiating sessions judge of Sylhet, No. 386, dated 17th September, 1855.

I have the honor to acknowledge the receipt of your vernacular proceeding, dated the 8th September, in the case noted in the margin, being one in which on coming before you in appeal, you released the three defendants, appellants, and in addition released twenty-seven other

* Sheikh Bekun, plaintiff respondent, *versus* Gobindpershad Dutt, Whelaram Nag and Kotoo Chowkeedar, defendants and appellants.

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defendants, *(not appellants)* who were under their trial before me. As regards the three appellants, they having been tried and released by you in appeal, your orders have been carried out, but as regards the remaining twenty-seven defendants, I have the honor to request either a revision of your sentence, or that the whole papers of the case may be forwarded to the Court of Nizamut Adawlut for proper orders, together with this letter.

With the same case The circumstances were referred by the judge, at the magistrate's request, for the orders of the Nizamut Adawlut. It was observed that the judge with reference to Section 5, Act XXXI. 1841, under which law this case was referred, had acted irregularly in first giving orders, and referring his orders for the Court's sanction.

My reasons for this request are :—

1st. That the case is most satisfactorily proved by the evidence on oath of fifteen witnesses, most of whom were unconnected with either party, and by the replies of the defendants, Ataram, Kashishchunder Sermah, Gungagobind Bot and Ramchunder Bot

2nd. That the charge of resistance of police, who were on the spot for the purpose of preventing breach of the peace, which took place in their presence and for which also the defendants were punished, has not been noticed by you.

3rd. That the defendants were not summoned by me on the report of the nazir as stated in your *roobakaree*, under acknowledgment

4th. That in consequence of the noted character of the defendants (see mohafiz's report of 28th August) and the extreme wealth of both parties, I feel convinced that should the entire defendants be released, some violent breach of the peace might ensue.

On referring to your *roobakaree* of acquittal, I would observe that on going through the papers of the case, you will find that the nazir gave in his report on the 11th July; that the evidence of the witnesses was taken on the 12th July; and that the defendants were summoned on the 13th July, after hearing the evidence for the prosecution How then is it possible that I could have summoned the defendants on the report of the nazir, when it is evident from the papers of the case that they were summoned after hearing the evidence on oath of the witnesses.

I would here observe that the reason why the nazir was deputed was, that he is not a native of this place, is a highly respectable man and totally unconnected with either parties, whereas the darogah of the thannah, in which the riot took place is a relative of the present defendants. Add to this, a proof of the fairness of his investigation and of his having carried the whole on, without the least partiality, is that no one of either side presented any petition in my court, complaining of it or requesting a fresh investigation.

Had any one done so, your remarks concerning the nazir's report being one-sided might have held good, but the papers of the case must show that the accusation of my having only listened to my nazir is not the fact, and that, when it is proved

1855. October 13. Case of GOBINDPERSHAD DUTT and others.

that I did not summon the defendants upon the nazir's report, it is impossible that I could have imitated him or acted according to his direction as you state, (অনুগামি.)

As regards my first reason, it is proved most satisfactorily that four months previous to the day in question, the police had been, by my orders, always on the spot on bazar-day to prevent a breach of the peace; that on the day in question the new bazar people made three separate attacks on the old bazar belonging to the plaintiff's zemindar; that the police succeeded in keeping them off in the first two attacks, but that in the third attack, they were overpowered, and the new bazar people got among the old bazar, upsetting their states, &c.; that the people in the old bazar, who were only bazar people assembled as usual to buy and sell, being overpowered by numbers ran away; and that the plaintiff, Bekun, having a load of *suparee*, not being able to get away in the time, was left behind and wounded, hence the reason of one man only being *wounded* in the riot, although many were otherwise hurt. There is no direct evidence of the plaintiff having been wounded by the defendant, Rohomor, he states it himself, and one witness, Basir, states it also, but further than this, there is no proof; moreover, not a single witness states that the defendant, Rohomor, was lame, nor on his being sent in to me, did I call any witnesses to point him out, being convinced in my own mind, that had I punished a man in such a state for riot, that fact alone would be almost in itself sufficient grounds to obtain a conviction in appeal, from the stress which the defendants laid upon the fact of this lame man having been released, I felt sure that some other man had been produced in court in his stead, and had the case terminated otherwise, I should have proceeded to make further enquiries.

The resistance to the police is proved by the evidence of the zemindar and burkundazes of the thannah unconnected with any party; that there was a riot or affray is clear from Ataram Pal's reply, but as to the case being two-sided that is impossible, for all the defendants in their defence plead an *alibi* and moreover, the second side (appellants) were clearly aggressors, therefore, as I summoned the defendants, thirty in number, on good grounds, and as by your throwing out the case, which is so clearly proved, my monthly statements must appear most unsatisfactory (twenty-seven released) and require explanation. I send the papers of the case herewith and request the favor, if you still differ with me as to the points mentioned, that as in the case of Achim Shah, for which see my letter to the late sessions judge No. 68, of 22nd February, 1855, a copy of this letter may be sent with the whole papers of the case for the order of the Nizamut Adawlut, pending which, I have kept the remaining defendants on their former bail.

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Case of GOBINDPERSHAD DUTT and others.

I must apologize for having thus spread out this report, but I am obliged to do it in self-defence: I am aware that the late sessions judge has informed you of his opinion that I am in the habits of being led away by my umlah and police; but this I must positively deny, as in most I may say, *all* heavy cases, I invariably take the papers of the case, and read the necessary reports, &c., with my own eyes and take notes of the principal points without the aid of any umlah. Under these circumstances, I do not see how the assertion can be true.

In the present case, the first I think that came before you in appeal, your only reason for reversing my order seems to be the opinion that I acted merely on the report of my nazir, but as I trust I have proved to the contrary, I venture to hope for a revision of your sentence, as regards those who did not appeal, or a reference to the Sudder Nizamut

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 901, dated 13th October, 1855.

The sessions judge states in his letter of reference that he refers this case, under Section 5, Act XXXI. 1841. From the magistrate's letter to the address of the judge, which accompanies the reference, it would appear that the sessions judge on an appeal preferred to him by three persons from an order passed by the magistrate, has acquitted them and likewise stopped all proceedings against twenty-seven other persons, who were connected with the charge under investigation. The magistrate has demurred against this exercise of authority on the part of the sessions judge, and has demanded a reference to the Court on the subject. Such reference cannot be made, under Section 5, as supposed by the sessions judge. That Section enacts that the sessions judge may call for and examine the records of any court immediately subordinate to him, for the purpose of satisfying himself as to the regularity of the proceedings of such court, but declares "it shall not be lawful for any court, under the degree of the Nizamut Adawlut to alter any sentence or order of any subordinate court, except by appeal by parties concerned duly made according to the provisions of this Act." In the present reference, the sessions judge has himself passed orders and now refers those orders for the sanction of the Court. This proceeding is quite irregular, and not warranted by the provisions of the law cited.

The sessions judge will, therefore, recall his order and await any appeal that may be preferred to him from the proceedings of the magistrate, or should he consider that officer to have acted in this case without warrant of law, he can call upon him for explanation, and if necessary, report the matter to the superior Court, under the general rules provided for the guidance of sessions judges under such circumstances.

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Case of GOBINDPERSHAD DUTT and others.

The Court remark that the sessions judge does not appear to have drawn up his orders in the appeal case in conformity with Act XXXIII. 1854.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

KOOSHAI RISHEE.

Rajshahye.

1855.

October 13.

Case of KOOSHAI RISHEE.

A deputy magistrate sentenced a *piada*, who had obtained a situation in a moonsiff's court, (falsely stating his caste) to six months' imprisonment with labor commutable to fine. As no regular complaint had been laid, the Court, considering the deputy magistrate's conduct illegal and unjustifiable, cancelled his order and warned him against similar proceedings in future.

This case was referred to the Nizamut Adawlut under Section 5, Act XXXI of 1841, and Circular Order dated 18th March, 1842, by Mr. G. C. Cheap, sessions judge of Rajshahye, on the 21st August, 1855, with the following report.

The prisoner named in the margin* applied and obtained from the Moonsiff of Serajgunge, the situation of peon or peadah to his court.

* Kooshai Rishee.

He stated he was a *Chandal*, but on enquiry it turned out he was a Rishee, a caste of Moochees, whose occupation is to skin kine, that may die, for their hides.

The Moonsiff, a Hindoo and Pundit, represented the matter to the deputy magistrate of Serajgunge, who, on this representation, and without any formal complaint by the Moonsiff's Nazir, or any other officer, has sentenced him to six (6) months' imprisonment and labor commutable on the payment of a fine of ten rupees

The joint-magistrate of Pubna considers the sentence unwarranted and uncalled for, and I concur with him that there has been no criminal offence, or one deserving of such punishment, and therefore, as the prisoner has not appealed, refer the case for the Court, to quash the conviction if they consider no crime or offence has been committed.

I would beg to remark that I can find no punishment in the Hindoo code, for a person concealing his caste, and thus obtaining employ; and the only case, that might be held to be a misdemeanour is, "dishonoring by means of food." But I do not suppose the Moonsiff, or any of his *omlah* have eaten with the peadah.

With reference to the above, the following letter was addressed to the sessions judge by the Nizamut Adawlut, No. 786, dated 30th August, 1855.

The Court having had before them your letter No. 40, of the 21st instant submitting under Act XXXI. of 1841, the record of the case of Kooshai Rishee, direct me to return the same, and

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Case of KOOSHAI RISHEE.

to request that you will comply with the requirements of Circular Order No. 65, of the 17th July, 1851.

In reply to the above, the following letter was submitted by the sessions judge No. 46, dated 22nd September, 1855.

Agreeably to the orders of the Court, conveyed in your letter No. 786, of the 30th ultimo, a copy of the joint-magistrate's *roobakaree* in *re* Kooshai Rishee, with a translation in Persian of my letter No. 40, of the 21st August, to your address, were sent to the deputy magistrate of Serajgunge and have called forth the explanation herewith submitted, only just received.

The proceedings in the case are again submitted for the Court's approval.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 902, dated 13th October, 1855.

The Court, having perused the papers above recorded, connected with the case of Kooshai Rishee, observe that the only reason given by the deputy magistrate, for his proceedings, is that he considered the sentence would act as a warning and example to others who might be inclined to act in a similar manner.

As there can be no doubt that the order of the deputy magistrate is illegal and, under the circumstances, quite unjustifiable, the Court cancel the same and direct the immediate release of the prisoner.

The sessions judge will convey to the deputy magistrate a warning that should he, in future, act in a similar unauthorised manner, his conduct will be reported to Government.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

CHEEDAM PAUL

versus

BENEEMADHUB KAESTO AND HULODHUR KHYRA.

BUNGSHEE NAPIT

versus

BENEEMADHUB KAESTO AND HULLODHUR KHYRA.

West Burdwan.

1855.

October 2

Case of BENEEMADHUB KAESTO and another.

The cases of the prisoner Hullodhur Khyra were referred on two grounds, 1st on the question of the legality of the cumulative sentence passed by the joint-magistrate. 2d. on account of the judge's belief of the innocence of the prisoner.

On the first point the Court remarked that so much of the sentence as was in excess of two years *in all* must be remitted. On the second point, as the prisoner had not appealed, the Court declined to interfere and remarked that a

These cases were referred to the Nizamut Adawlut under Section 5, Act XXXI. of 1841 and Circular Order, dated 18th March 1842 by Mr. Pierce Taylor, sessions judge of West-Burdwan, on the 1st October 1855, with the following report.

The particulars of both cases have been so fully detailed in the collective English decision of the joint-magistrate, and that passed by me in the appeal of the prisoner Beneemadhub, that it cannot be necessary to repeat them here. The principal ground of reference is, of course, the legality or otherwise of the cumulative sentence, passed by the joint-magistrate, against the prisoner Hullodhur Khyra, who has not appealed As I conceive that were reference to the regulation and construction, cited in the appeal decision, must shew the same to be illegal, I have only to solicit the Court's permission to direct the joint-magistrate to revise and adjust it. I may however, add, that as the flight of the prisoner from the Phandee and his re-capture took place before that officer could decide the case, no punishment ought, in my opinion, to have been awarded to him for the said flight, as a separate offence The second and subordinate ground of reference is the (to me) presumable innocence of the prisoner, Hullodhur, of the crime charged against him, as deducible from the circumstances of the two cases (which are in fact one,) notwithstanding his having, to all appearance, confessed in the mofussil, and his failure to appeal to this court

I had so strong a presumption of his innocence, on perusing the records of the two cases forwarded, that I considered it my bounden duty to mention it to the Court, on making the legal reference, and accordingly do so, with a recommendation that the said prisoner be released, *if such an order can be passed, his ostensible mofussil confession and absence of appeal on his part notwithstanding.* I do this, because the chowkeedars and ghatwals in this district are notorious for their false accusations, arising from old quarrels, or sudden enmities, and they ought to be shewn that their supposed victims can escape, whenever the truth comes out, or is violently presumable, even though

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doubt as to the prisoner's guilt was no ground of reference.

they may have resigned themselves to their fate, in apathy or despair.

On re-consideration of the whole case, I am inclined to think, that it was a mere conspiracy between the chowkedar, the two prosecutors, and the ghatwals, from the very first, i. e. that all these persons first arranged how the prisoner Baneemadhub was to be accused, convicted, and imprisoned, that the prosecutors then went, with the chowkeedar, bullocks, and cart to Hautgram; that the *chalan* of pretended capture, which associated the name of a doubtful character (for Hullodhur's fame is very questionable) with that of Baneemadhub, was then sent to Rajah Sookoomar Dhut, and that the writer of the *challan*, Haradhun, was persuaded to join in the conspiracy. There are many circumstances which point to such a conclusion, viz.:

1st. The bullocks and cart are said to have been stolen on different nights.

2nd. The prosecutor, Cheedam, resides at Pauthpore, close to the Bancoorah jail, and the prosecutor, Bungshee, at Kistonuggur, the residence of Beneemadhub, which is about two *coss* distant, while Hautgram is a good distance further on the road to Maunbhoom, and Podulara more distant still.

3rd. It seems quite unlikely that a person of Beneemadhub's age, caste, and character, could, in association with a Khyra of bad name have stolen three bullocks from Pauthpore, kept them two days, then stolen a cart from an inhabitant of his own village, and, finally, have been captured by the ghatwals at Hautgram in the way described by them.

4th. The chowkedar avoided saying that both the prosecutors and ghatwal had accompanied him to Hautgram, in his first deposition before the phandeedar, and only said so, afterwards, when the prosecutors had acknowledged the fact, and it no where appears why they all went straight to Hautgram, for the prosecutors both afterwards said, that they did not suspect Beneemadhub, and neither they, nor the chowkeedar have explained why they chose the road to Maunbhoom. The circumstance of their having said that they did not suspect Beneemadhub is of no force against my suspicion of conspiracy for much consentaneity of statement, with the chowkeedar and ghatwals, would have been dangerous.

5th. The prisoner, Hullodhur was, I conceive, associated with Beneemadhub, in consequence of the youth and caste of the latter and the necessity of coupling him with an alleged *budmash*, as a suggestion of his having gotten into wicked company, and been persuaded to do the deed, moreover they probably expected to get a confession from him, without difficulty.

6th. The Court will perceive that the chowkeedar, prosecutors and ghatwals had the case entirely in their own hands all through, for the witness Haradhun, who wrote the *chalan*, was easily per-

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suadable, and the highly suspicious nature of the contents of that document will not fail to strike the Court.

7th. Under such circumstances the so-called mofussil confession of Hullodhur, which certainly contains no internal marks of truth,* and which was repudiated by the prisoner before the joint-magistrate is a mere *mamoolee*, or usual one, i. e. the sort of confession which the ghatwals ever fail to extract, in some way, when a case requires clinching. As it is well known that such confessions are frequently written down first, and prisoners made to nod their assent to them afterwards, the remarks of the joint-magistrate, on reference to the credibility of that under consideration, cannot have much force, for the prisoner, very possibly, could not recollect a word of his pretended statements when he was called upon for his defence.

* As the confession pretends that Beneemadhub brought the bullocks and cart alone, and that the prisoner only accompanied him to Maubhoom at the instance of Ram-Soonder Gossain, it is highly probable that the ghatwals had persuaded him that he could not be punished upon it.

It is worthy of remark, that when the prisoner's defence was taken by the joint-magistrate, he was not even asked whether he had confessed in the mofussil.

Lastly, the Court will observe, that all the probabilities and strong presumptions, in the case of Beneemadhub, apply with equal force to that of Hullodhur. There remains his reputed *budmashee*, which, with his entire inability to prove the way in which the ghatwals concocted his confession, most probably prevented his preferring an appeal. As he is a low caste man, and such have no great terror of the jail, he probably resigned himself to his fate with considerable apathy. As to the evidence of his having confessed with his own lips, such cannot be trusted in this district,† and it will be seen, on referring to the confession itself, that the names of the witnesses are all signed for them, in one hand-writing, without any marks or other attestation of any kind.

† In cases containing other suspicious circumstances.

The joint-magistrate has been furnished with a copy of this report, and his explanations, and my remarks thereon will accompany.

From the sessions judge of West Burdwan, to the register of the Nizamut Adawlut, No. 172, dated 6th October, 1855.

With reference to the concluding paragraph of my report to your address No 166, of the 1st instant, I have the honor to subjoin copy of the joint-magistrate's explanation with my remarks thereon, in half margin.

I consider the explanations quite insufficient.

From the joint-magistrate of Bancoorah, to the sessions judge of West Burdwan, No. 328, dated 4th October, 1855.

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* No. 15, of 1855, Cheedam Pal *versus* Beneemadhub Kaesto and Hullodhur Khyra. Charge, theft of three bullocks.
No. 16, of 1855, Bungshee Napit. *versus* The same prisoners charge, theft of a cart.

I have the honor to acknowledge the receipt of your letter No. 167, dated the 3rd October, 1855, together with enclosures noted in the margin.*

I must admit that the orders issued by me should have been differently worded, and that in place of sentencing the prisoners to a separate punishment on account of each offence, I should have imprisoned them agreeably to the regulations and constructions noted by you in your *roobakaree* of appeal. In effect, however, I have not exceeded my powers for the accumulated sentences in the case of both prisoners do not amount to three years.

The joint-magistrate has, of course, no authority to imprison for three years, unless he gives one in lieu of *stripes*, of which no mention was made in his order.

I am unable to comprehend the drift of your remarks with reference to the flight and recapture of the prisoner, Hullodhur. The case was not only pending in my office at the time of his arrest, but the evidence, against Beneemadhub, had been fully entered into, and the witnesses for his defence had been heard.

What I meant by my remark, which appears sufficiently clear, was, that the flight of a prisoner can only be treated as a separate offence, when he flies after sentence passed.

From your 4th paragraph,† I gather that you doubt the occurrence of the theft at all. To me it appeared improbable that two men who are of different castes and reside in different villages should conspire with a number of ghatwals, living sixteen miles off, to injure an individual, with whom they had no previous enmity. It must be taken into consideration also, that no ill-feeling on the part of those ghatwals is urged and it is pretty clear, that up to the time of the theft they were all utter strangers to Beneemadhub. It is stated to be sure that Odit Chowkeedar owed the defendant a grudge,‡ but admitting this to be true, is it at all probable that a man in his position should have the means of setting in motion such extensive machinery§ as must be required for the conspiracy like the present?

† There was no improbability in the matter; sixteen miles was nothing to a man determined to revenge himself on his enemy, and there was no difficulty in getting the ghatwals to take his part He was a police officer, and that was quite sufficient for them He could easily get the two prosecutors to help him, if they were friends of his, and there is nothing to shew that they were not.

‡ The witnesses cited by the defendant proved it.

§ It has been shewn that there was no extensive machinery to set in motion.

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This very suspicious circumstance, which the joint-magistrate has treated in his decision, is a mere clerical error, strengthens the conjecture of conspiracy, for, notwithstanding the fact that *Mudhoo Khyra of Jerrah* was mentioned in the *chalan Hulodhur Khyra of Jeltea* was seized, merely on the ipse dixit of the chowkeedar, Adhyt, in his *izhar* before the phandeedar, of the 7th Assar.

On turning to the document in question which is in the record of case No. 16, I find still stronger proof that my conjectures are correct. The prisoner, on being asked "what he had said to the *bukshee* of the Rajgaon phandee answered, I told the bukshee that I was a *muzdoor* employed by Ramsoondar Gossain, who had sent me with bullocks to Byrachallee of Hautgram, out of fear I said that. On being again asked whether he had said all that of his own accord, he answered, I did not say it of my own will, but because I was afraid of being beaten

On being asked a third time, whether any body had prompted what he said, he replied no one prompted me.

From these questions and answers, I gather, that he never heard the contents of his alleged confession, and that he did not mention Beneemadhub Kaesto therein, and my presumption of the confession having been concocted and given by the chowkeedar and ghatwals, in collusion, is confirmed

The phandeedar having been changed, *ad interim*, made no difference, if the ghatwals, as I suspect, gave out what the prisoner had said and had it written down without his perfect cognizance.

* This person has the character of a *budmash*, but no offence has ever been proven against him.

In the *chalan* upon which the case is founded, Beneemadhub is not associated with Hullodhur Khyra, but the name mentioned is Mudhoo Khyra of mouzah Jerrah. There is no such person as Mudhoo Khyra in existence, and if there had been any deliberate intention of associating the first defendant with a doubtful character, it strikes me the *chalan* would have been written more carefully.

If you will turn to Hullodhur's defence when charged with escaping from custody, you will see that he was asked whether he had confessed to the theft before the police, and that he admitted having done so without being prompted thereto by any one. I may add, with regard to this confession, that it was not taken by the same phandeedar who had conducted the previous enquiries but by his successor, and the police, therefore, are less liable to the charge of having colluded with the ghatwals than might otherwise have been imagined. The prisoner was arrested, moreover, upwards of a month after Beneemadhub, and his arrest is not in any way due to the ghatwals who are interested in this case. The circumstances which led to his apprehension are simply these. About three months ago a case of theft occurred in which Odit Roy and Hulla Kawra were defendants. The latter absconded and the former was released, because I saw reason to believe that his name had been falsely introduced into the case to satisfy an old grudge. I was privately informed, when the above case was pending, that Soonder*

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Gossain was interesting himself on behalf of the prisoners. When therefore, I saw the same Gossain hanging about my court when the present case was going on, I, at once, connected him with it and issued orders to the police to search for the missing Hullodhur in his house. He was found there (or close by) and as Soonder Gossain admitted that the man was living with him, my knowledge of their previous connection, coupled with the fact of the Gossain's presence at the trial, induced me to place belief on the confession.

From the sessions judge of West Burdwan, to the Regis of the Nizamut Adawlut, No 137, dated 6th October, 1855.

With reference to the previous explanations of the joint-magistrate, furnished with his letter No. 328, of the 4th instant, I have the honor to forward, herewith, copy of a further one, the contents of which require no particular remark.

From the joint-magistrate of Bancoorah, to the sessions judge of West Burdwan, No. 329, dated 5th October, 1855.

I find that in my letter of yesterday, regarding Beneemadhub's case, I made a mistake which I am anxious to correct. Hullodhur was arrested twenty-five days after the first defendant and not upwards a month.

I take this opportunity of observing that if you had seen Beneemadhub, you would have concluded as I did, that he was more than fifteen years old. In the record I see he is put down as about twenty-five. I should say myself he was twenty.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 927, dated 29th October, 1855.

The Court, having perused the papers connected with the cases of the prisoner Hullodhur Khyra, observe that the sessions judge has made the present reference on two grounds, *first* that the joint-magistrate has sentenced the prisoner for theft to two years and three months imprisonment, and to three months extra imprisonment, with a fine of 20 Rs. in lieu of labor, for having escaped from the phandee, and *secondly*, that the sessions judge considers the prisoner innocent of the crime for which he has been punished. On the first point of reference, the Court remark that the joint-magistrate cannot pass sentence beyond the period of two years (not including any further extension in lieu of stripes.) The excess must therefore in the present instance be remitted and the sentence be upheld to the extent of two years only. On the second point, the court observe that a difference of opinion as to the guilt or innocence of a prisoner is no ground for a reference under the Act, especially in a case like the present, in which the prisoner has been sentenced to a period of imprisonment which gives him a right of appeal to the sessions judge of which he has neglected to avail himself. On that point therefore the Court see no reason to interfere.

PRESENT:

A. DICK, Esq., *Judge.*

GOVERNMENT and MODHOOSOODUN GHOSE

versus

NARAYUN DOME (No. 4,) NOBIN DOME (No 5,) NUFFER BAGDI (No. 6,) and RAMDHUN DOME (No. 7.)

East-Burdwan.

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Case of NARAYUN DOME and others.

Prisoners convicted, and sentenced Nos. 4 and 5, who were respectively a chowkeedar and simanadar, to seven years, and prisoners Nos. 6 and 7 to five years' imprisonment with labor and irons.

CRIME CHARGED.—Attempt at dacoity. Prisoner No. 4, being a police chowkeedar, and No. 5, a *simanadar* at the time of the occurrence.

CRIME ESTABLISHED.—Attempt at dacoity.

Committing Officer.—Mr. H. B. Lawford, officiating magistrate of East Burdwan.

Tried before Mr. J. H. Young, sessions judge of East Burdwan, on the 3rd July, 1855.

Remarks by the sessions judge.—There is no doubt that an attempt at dacoity took place in this case. The prisoner No. 4, was caught running away after the occurrence, and he was recognized by six witnesses, Nos. 1, 2, 3, 5, 6 and 7, as well as by the prosecutor. The prisoner No. 5, was recognized by three witnesses, he brought forward eight witnesses, who declare that he was on his beat at the time of the occurrence, but they only heard his voice and did not see him there, and they are fellow-chowkeedars.

Prisoner No. 6, was recognized by three witnesses. He produces seven witnesses, who say he was asleep with them at the time of the occurrence, the (prisoner No. 6,) was twice before committed to the sessions, once in a dacoity case and again in a riot, but acquitted.

Prisoner No. 7, was recognized by three witnesses. He also has witnesses to prove he was at the village of Khursee; the gomashta and respectable people of Chandgram, where his house is, say he was absent in Burdwan, at the time the dacoity was committed. In addition to the above, (Narayun, prisoner No. 4,) the man who was caught on the night of the dacoity, declared next day, that prisoners Nos. 5, 6 and 7, were with him in the dacoity, and in consequence they were arrested. There can be no doubt of the guilt of prisoner No. 4, he is a chowkeedar also, which adds to his crime. Prisoner No. 5, was fully recognized, and his witnesses are all chowkeedars like himself, their evidence also only goes to show that they heard a voice answer theirs when they called, but they could not say it was prisoner No. 5. Prisoner No. 6, has also been fully recognized, his witnesses were all asleep when the dacoity took place, and it is possible that *after* being at the dacoity, he (prisoner No. 6,) might have gone and awoke them. He is an old offender also, having been

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twice before accused of dacoities. Prisoner No. 7, is recognized, and it is shown in spite of his witnesses that he was absent from the village at the time of the dacoity. Prisoners Nos. 4 and 5, are sentenced to seven years with labor in irons, and prisoners Nos. 6 and 7, to five years each with labor in irons.

Remarks by the Nizamut Adawlut. -(Present: Mr. A. Dick.) After a consideration of the grounds of appeal and perusal of the record of trial, the Court see no reason for interference with the convictions and the sentences passed on the prisoners.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND CHEEKA NUSHO

versus

NOONOOA ALIAS PUBNA (No. 8.) AND HURREA ALIAS HURLAL KYBRUTH (No. 9.)

Dinagepore.

1855.

November 2.

Case of NOONOOA *alias* PUBNA and others.

The conviction of the sessions judge in this case was upheld, under which the prisoners, who had confessed in the magistrate's court, were sentenced to imprisonment with labor and irons, each for seven years.

CRIME CHARGED. -Dacoity in the house of Cheeka Nusho, and plundering therefrom property, valued at Rs. 119-3.

CRIME ESTABLISHED.-- Dacoity.

Committing Officer. -Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr James Grant, sessions judge of Dinagepore, on the 17th August, 1855.

Remarks by the sessions judge. - This case was tried under Act XXIV. of 1843.

On the night of the 24th April, 1855, the prosecutor's house was attacked by a gang of dacoits, who carried off property valued at Rs. 119-3. The prosecutor escaped from his own house to that of a near neighbour and pelted the dacoits with bricks. The prisoner, Noonooa No. 8, having been struck on the head and knocked down by one of them was carried to some distance by his accomplices, who then abandoned him, being pursued by the prosecutor and neighbours; Noonooa No. 8, at first gave a false name, but afterwards confessed and named his accomplices, Hurrea alias Hurlal No. 9, and others. Both the prisoners confessed in the foujdary and merely named witnesses to their character. Before me they pleaded *not guilty*, Noonooa No. 8, stating that being drunk, while on his way home, he fell asleep under a tree near the prosecutor's house, and during the night wished to get some water from the prosecutor, who wounded him with the ring of a well and called him a dacoit. Hurrea No. 9, said he was apprehended because he refused to sell grain cheap to the darogah, who threatened him.

Sentence passed by the lower court.—Each to be imprisoned with labor and irons for seven years.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Both prisoners fully confess before the magistrate. There is also other sufficient proof on the record, to justify their conviction. We therefore see no reason to interfere.

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Case of NOONOOA alias PUBNA and others.

PRESENT:

SIR R BARLOW, BART., *Judge*

GOVERNMENT

versus

KOOBEER GHOSE GWALLA.

Hooghly.

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Case of KOOBEER GHOSE GWALLA.

Convicted on his own confessions, and on the testimony of approvers Prisoner had committed numerous dacoities. Sentenced to imprisonment for life in transportation.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer —Mr. J. R. Ward, commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 6th September, 1855

Remarks by the additional sessions judge -The prisoner was named to the dacoity commissioner as a dacoit. He was accordingly apprehended, and made a full confession of guilt before the commissioner, a few days afterwards.

The approvers, two in number, produced at the trial in support of the charge against the prisoner, affirm that the prisoner was present in three different dacoities, one in the village of Balepokorea, one on a boat below Kaleenuggur, and the other on a boat below Hurrindangah.

The witnesses, who attested the prisoner's confession before the dacoity commissioner, have testified that he gave it of his own free will and accord.

The prisoner seems, by the records which the dacoity commissioner has appended to the papers of the trial of the prisoner before him, to have long practised the profession of a dacoit. Some of his expeditions took place so long ago, that there is no trace left of them in the public offices. He was on one occasion, sentenced to nine years' imprisonment for a dacoity, which is one of the twenty-four to which he lately confessed. He admitted also the commission of the three cases in which the approvers implicate him.

He acknowledges that he made the confession imputed to him, pleads guilty to the charge, and has nothing to say in his own defence.

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Case of KOOHEER GHOSE GWALLA.

I would convict the prisoner on the testimony of the approvers, as well as on his proved voluntary confession, of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) There is ample evidence against the prisoner, supported by his confessions before the dacoity commissioner and in the sessions court. He is sentenced to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND TARNEECHURN THAKOOR

versus

NOBIN DOME (No. 1,) AND KOONTI ALIAS GANDHARI DOMNI (No. 5.)

East-Burdwan.

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Case of NOBIN DOME and another.

Prisoner No. 4, acquitted for want of sufficient legal evidence. Prisoner No. 5, convicted on her own admission of participating in the murder of the deceased, and sentenced to imprisonment for life, with labor suited to her sex.

CRIME CHARGED.—Wilful murder of Matungini Debi.

Committing Officer.—Mr. H. B. Lawford, officiating magistrate of East Burdwan.

Tried before Mr. J. H. Young, sessions judge of East Burdwan, on the 29th September, 1855.

Remarks by the sessions judge.—From the evidence it appears that on the night of the 8th August, the prosecutor Tarneechurn Thakoor, on his return to his house, not finding his wife named Matungini Debi, a child of twelve or thirteen years of age, at home, went in search of her with his neighbours, they did not find her however until two days afterwards, when her body was discovered in a neighbouring *khal;* there were no marks of violence whatever upon the corpse.

On the previous day, in consequence of some suspicious circumstances, the prisoners Nobin and Koonti and Soondri Domni and Chinibas Dome had been accused of making away with the deceased, and the two latter having been subsequently admitted as witnesses (Nos. 13 and 14,) declared that Nobin and Koonti had taken away the deceased from her home on pretence of conducting her to her father's dwelling, and that they had come back, saying that she had been accidentally drowned in the *khal.* A number of witnesses then came forward and swore that they had seen the prisoner Koonti in the act of taking away the child on the night in question.

When called on for their defence, both the prisoners, Nobin and Koonti, tried to throw the charge upon one Tarachand and the mother of the prosecutor; before me, however, they said there

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was no truth in their former story, and Nobin tried to prove an *alibi*, in which he entirely failed, and Koonti said that she knew nothing about the matter.

The only evidence against Nobin is his own wife, Soondri Domni, witness No. 13, but her evidence is so clear and is so perfectly borne out by the general facts disclosed in the case, that I have no hesitation in believing that the account she gives of the transaction is a correct one. Against the prisoner Koonti, there is abundant evidence to show that the deceased was seen alive for the last time in her company. It is true that there were no marks of violence on the body, but this would have been the case if, as I believe, the deceased was simply held under the water, until life was extinct.

The case was tried with the assistance of a jury, one of whom considered that both the prisoners were guilty upon violent presumption, the two others agreed that the female prisoner had been the cause of the death of the deceased and that the other was cognizant of, if not actually a party to it.

I am of opinion that both are equally guilty; a dreadful crime, and one I am afraid but too common in this country, has been committed, and an unfortunate child has been deprived of life for the sake of some paltry ornaments which were upon her person. It is however just possible, and that is all, that the child may have been accidentally drowned, and this being the case, it is only right that the prisoners should have the benefit of the doubt.

I recommend therefore that they should be both sentenced to transportation and imprisonment with labor for the term of their natural lives.

Remarks by the Nizamut Adawlut: (Present: Messrs H. T. Raikes and J. H. Patton) The judge considers the evidence sufficient to convict both the prisoners, on violent presumption, of their guilt, but in our opinion the evidence does not bear equally against both of them. We find it stated in the deposition of several witnesses that the prisoner Gundhari alone was seen in the company of the deceased, on the night in question, and that Sundri Domni is the only one who speaks to the prisoner Nobin having accompanied these two, and to have returned with Gundhari in the morning, their clothes being wet, and reporting that the deceased had been *drowned accidentally* in passing the *khal*. Yet, if this be true, it is difficult to reconcile it with the statement of these witnesses, who say they saw Nobin hurriedly passing *alone* in the early morning with his clothes wet. The reliable points of the evidence are, that the prisoner Gundhari was last seen with the deceased; that her body was found in the *khal*, in which there is no doubt she met her death; that Gundhari admits that she did so accompany her, and made her over to one who was to take her life. It is a fair

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and reasonable conjecture to attribute this admission to an intention on her part to meet the evidence which, she knew would be produced against her But whether the object of the murder was that set forth by Gundhari, or, what is more probable, the possession of the few ornaments the deceased wore at the time, the tenor of Gundhari's admission goes against any belief that the death can be attributed to accident only, and fully justifies a fair presumption that the deceased was made away with, by violent means, and that Gundhari herself was instrumental thereto. We convict her therefore of particpating in the murder of Matungini Debia, and sentence her to imprisonment for life with labor suited to her sex The evidence not being legally sufficient to convict the prisoner, Nobin Dome, we acquit him and order his release.

PRESENT:

A. DICK AND B. J. COLVIN, Esqs., *Judges.*

GOVERNMENT AND W. T. TAYLOR, Esq.

versus

GOOLZÂR KHAN (No. 3,) AND MARY AYAH (No. 4.)

Rajshahye. 1855. November 2. Case of Goolzar Khan and another.

Prisoner No. 3, sentenced to (4) four years' imprisonment with labor and irons and prisoner No 4, acquitted for want of full legal proof.

CRIME CHARGED.—No. 3, 1st count theft of property to the value of about 500 Rs ; 2nd count, knowingly taking and being in possession of the above stolen property; No. 4, 1st count, aiding and abetting in the above theft; 2nd count, privity to the above theft

CRIME ESTABLISHED.—No. 3, theft of property and knowingly receiving the same. No. 4, aiding and abetting in the above theft.

Committing Officer.—Mr. J. C Dodgson, magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 28th July, 1855.

Remarks by the sessions judge.—This was a heavy theft from the house of Mr. Taylor, the collector of the district, according to whose statement the theft must have been committed between the hours of 7 and 9 P. M., of the 11th of July, when the prisoner No. 4, who was Mrs. Taylor's Ayah, had been left in the room or rooms from which the dressing-case and workbox (subsequently found in the premises uninjured) were taken. No. 3, (a discharged mussalchee in that gentleman's service) on being apprehended, informed the police that next day he would point out the property, and accordingly he took them to a place between the premises of No. 4, and of another Ayah by name

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Ameerun, and there produced an enamelled watch, and several silver covers and other articles that had been taken from the dressing-case: he also pointed out the place on the river-side where the box had been broken open and (after being gutted) was thrown into the river. And at this place the darogah discovered pieces of the box (which like all Europe ones was veneered) and broken glass bottles, thus confirming the prisoner's confession, and proving that he must have been present at the breaking open and rifling of the box. After the articles were recognized by the prosecutor (to whose house the prisoner with the things was taken by the police for this purpose) the prisoner confessed to the darogah that he had been concerned in the theft, and had remained outside the house when the box was handed out by No. 4, to him and an accomplice. No one but the prisoner No. 4, seems to have had access to the room where this box was kept, and she was the last person left in it, when Mrs. Taylor in the evening went into the sitting-room, and on being questioned how the bathing-room doors (inner and outer) came to be open, she gave very confused answers to Mr. Taylor. On this evidence, two vakeels of the court who sat with me as assessors, (and who had both acted as moonsiffs, one at Moorshedabad and the other here) convicted the prisoner No. 3, on both counts, and No. 1, of aiding and abetting in the theft; and I have sentenced them as below. Mr. Taylor could not tell where the prisoner No. 3, had been previously employed. Only that he had entered his service on his joining this station, but from what they said themselves, both were before in service in the same family. The male prisoner in a most impudent manner asserted he had been promised money by the police, *if he confessed*, and expected the prosecutor would have rewarded him. The darogah was examined both to the discovery of the property and the mofussil confession, and fully proved both facts, but as the prisoner denied the confession, the attesting witnesses were also examined, and they likewise fully proved it was voluntarily made, and no promise or encouragement was held out to induce him to confess. The most valuable article (a broach) has not been recovered, and the presumption is, that this was part of No. 3's share, and has not been delivered up by him. The value of the property not recovered was not stated, so no *mulct* could be imposed under Act XVI of 1850.

Sentence passed by the lower court.– No. 3, to four years' imprisonment with labor and irons, and No. 4, to two years' imprisonment with labor suitable to her sex.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin) The theft occurred on the 11th July, reported on the 12th July, and several of the servants suspected. All denied, except Goolzar, who, (without reason assigned) was reported to be absent. On the 18th, he is reported by the

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darogah to have come of his own accord to the thannah, and stated that he would next day tell where the property was; and he was allowed to go away. The darogah however fearing he might not keep his word, sent a peadah, Punaoollah, after him; and then followed disguised. Punaoollah was in Goolzar's house with Goolzar's wife, and the darogah was let in, as brother of Punaoollah. He lay down on a mat, and pretended to be asleep, Punaoollah and the wife talked of the theft; and the wife let out that the property was concealed in a deserted house of one Ameerun Ayah, near to Mary Ayah's house. A burkundaz had been left outside Goolzar was from home that night; he was apprehended next day, confessed, and pointed out the property concealed in the deserted house of Ameerun. Such is the darogah's story of the mode in which the property was recovered, and the confession of prisoner No. 3, obtained. Punaoollah and Peer Buksh in their depositions, both say, that some days after the theft, the darogah placed Goolzar, prisoner No. 3, in their custody, and desired them to get a clue to the theft. They took him to his own house, and did their best to teach him. In the night, he confessed, and word was sent to the darogah, when steps were taken to watch the spot where the property was concealed and to guard the prisoner. The prisoner denies that he confessed voluntarily, and declares that he was for several days confined, bound, and maltreated, and then made to confess, and point out the property where it was found.

The darogah was summoned to testify to the truth of the confession of prisoner No. 3, in sessions; yet, strange to say, he was not asked a single question regarding the non-apprehension of the prisoner Goolzar, with the other suspected persons. Of his being at large for six days, from the 12th July to the 18th, his then giving himself up, and the rest of the darogah's tale respecting the confession, and the recovery of the property: all so different from the depositions of Peer Buksh burkundaz, and Punaoollah.

Further, the son, Jani, of the prisoner No. 4, Mary Ayah, who was as fully implicated as the Ayah herself, in the theft, is never apprehended; his age not mentioned, in short not a word to be found regarding him in the darogah's proceedings, and not a word of inquiry, or a single question, regarding him to be found in the record of the magistrate, or of the trial! If the evidence of Punaoollah and Peer Buksh be credited, the conduct of the darogah was most reprehensible, and illegal; and the confession could not be received, as open to strong suspicion of being extorted. Had it not been unhesitatingly repeated to the prosecutor when sitting in office, before many persons present, as testified on oath by the prosecutor, it must have been rejected. The evidence against the Ayah amounts to no legal

proof; and it is not stated that the boxes carried off, were in her special keeping. She files several characters, one of ten years, in which her honesty is expressly set forth. I would confirm the conviction of prisoner No. 3, Goolzar, and acquit Mary Ayah, prisoner No. 4.

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Case of GOOLZAR KHAN and another.

PRESENT:

SIR R. BARLOW, BART. *Judge*

GOVERNMENT AND BABOO KHAN JEMADAR

versus

CHAMROO SHEIKH (No. 27, APPELLANT,) GHISTOO DHOOBY (No. 28,) POOSUN NAGGER (No. 29,) ATTEEOOLLA SHEIKH (No 30,) KHENUM NAGGER (No. 32,) SHEIKH JHABOO (No. 33,) AND RAJKISSORE SAHA (No. 34.)

Dinagepore.

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Case of CHAMROO SHEIKH and others.

Prisoners convicted of assembling with arms, with an evil intent, and sentenced No. 27 to six (6) years, and the remaining prisoners to four (4) years' imprisonment, with labor and irons. Sentence upheld on appeal.

CRIME CHARGED —1st count, assembling in a body with arms with intent to commit dacoity; 2nd count, assembling in a body with arms with evil intent.

CRIME ESTABLISHED.— Assembling in a body with arms with evil intent.

Committing Officer.—Mr. C E Craster, officiating joint-magistrate of Maldah.

Tried before Mr. James Grant, sessions judge of Dinagepore, on the 20th July, 1855.

Remarks by the sessions judge.—The jemadar of thannah Bholahat, while investigating a theft-case, was informed that the prisoner No. 27, Chamroo, and others had started in a boat on a dacoity excursion, previous to the Gowalbaree dacoity, on which he hired a boat, took some burkundazes and his informer (a former friend of No. 27, Chamroo's) with him, remained near No. 27, Chamroo's boat until seven of the prisoners were on board and then apprehended them. They said they were going to Raigunge (zillah Dinagepore) to purchase grain, but they had no cargo and Rs. 2-7-6, in cash, a gun and a couple of *lattees.* Chamroo No 27, and Ghistoo, No 28, said it was no use seizing them, but that they could give him the names of the Gourgureeleo dacoits. The jemadar then took Ghistoo, No. 28, to the joint-magistrate and from the information given by him, the dacoits in calendar No. 1, for September, 1854, were apprehended with a considerable quantity of the plundered property: Chamroo No. 27, before leaving home gave out that he was going to Purneah to purchase tobacco and was found in his boat near Peergunge, on the Mahanundah river, where it is not usual

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to repair boats, and not on the way to Purneah. The evidence for the prosecution proves that Chamroo No. 27, gave out that he was going to purchase tobacco at Purneah; that the place where his boat was found was not so convenient for repairing or fitting out a boat as the neighbourhood of his own village; that some of the other prisoners came on board his boat under most suspicious circumstances; that there were "*lattees*" and a gun on board, but nothing in the shape of money or cargo for trading purposes; that the boat had been at four or five places for two or three days, and that all the prisoners were about starting in the boat when they were apprehended. The fact that the information given by one of the prisoners (Nos. 28, Ghistoo,) and which another (Chamroo No. 27,) states that he was anxious to give, led to the apprehension of dacoits with plundered property, added to the evidence with the unsatisfactory and contradictory answers of the prisoners, make it clear to me that the prisoners were assembled with intent to commit dacoity. The prisoners Nos. 29, 30, 32 and 33, state that they were employed as servants by Chamroo, No. 27, and rest their defence on that of their master; Rajkissore No. 34 and Ghistoo, No. 28, are of the same village, a considerable way from the place where they were found on Chamroo No. 27's boat; Rajkissore No. 34, says he came in search of a stray cow and a servant who took an advance of a rupee from him and subsequently took service in Chamroo No. 27's boat, that he met his friend Ghistoo, No. 28, who said the jemadar had ordered him to remain on board and that Chamroo, No. 27, detained them both, as they were from the same village and knew of dacoits with plundered property; Ghistoo, No. 28, says that he mentioned the dacoits and plunder to the jemadar, who said he would take him to the thannah, but that he was in the mean time to remain on Chamroo's, No. 27, boat; Chamroo No. 27, says he was on his way to purchase tobacco, &c., at Raigunge (which is not celebrated for tobacco, as "Ekumba" in Purneah is); that his boat was fitting out at Peergunge, when Nos 28 and 34, came on board, and the latter said, he had informed the jemadar of dacoits and plunder, and was directed to remain on board; that both being from the same village, he detained them, and was about taking them to the foujdary to give information about the dacoity, when he was apprehended; that no plundered property was found in his boat; that the gun is his fowling-piece, and that what are called "*lattees*" were intended for the roof of his boat. There are considerable discrepancies in the answers of the said prisoners as given in the mofussil and foujdary, which they endeavoured to reconcile in their answers before me, but failed completely, and the evidence of their witnesses is more against them than in their favor. The case was formerly tried by me under Act XXIV. of 1843, when I convicted the pri-

soners on the 1st count: the *futwa* of the law officer now convicts the prisoners on the 2nd count, in which I concur, as evil intent includes dacoity and such like.

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Case of CHAMROO SHEIKH and others.

Sentence passed by the lower court.—No. 27, for six (6) years, and Nos. 28 to 30 and 32 to 34 (1) four years' imprisonment, each with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner Chamroo, has appealed against the sessions judge's orders. The circumstances under which he was apprehended with several others on board a boat with arms, and the fact of a large gang of dacoits having already been convicted, some of whom the prisoner and his associates named, afford strong grounds to suppose that the prisoner and those apprehended with him, who however have not appealed against the sessions judge's sentence, were out on a marauding trip, if not connected with the large number already convicted I see no reason to interfere with the sessions judge's orders.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT

versus

MUSST. MOHUR BEBEE

Dacca.

1855.

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Case of MOHUR BEBEE.

A capital sentence was not passed on the prisoner convicted of murdering her child on account of her state of mind previously

CRIME CHARGED.—Wilful murder of her infant daughter Musst. Doolee

Committing Officer. Mr. C. W. Mackillop, magistrate of Dacca.

Tried before Mr. S. Bowring, sessions judge of Dacca, on the 1st August, 1855.

Remarks by the sessions judge.—It appears that the prisoner Mohur Bebee, left her home on some provocation, with her child, about eighteen months' old, and killed it by dashing it on the ground, and then by pressing its throat. The prisoner herself became senseless, but on recovery, admitted she had destroyed her child.

There were no eye-witnesses, but circumstantial evidence was given by Meherally and others, Nos. 1,* 10, 11, 12, 13 and 14, some of whom gave their opinion that the prisoner was deranged.

The prisoner confessed at the thannah, and before the magistrate, and in this court merely pleaded *not guilty*. She called no witnesses.

* No. 1, Sheikh Meherally Chowkeedar.
10, Sheikh Ansoo
11, Musst. Shynah.
12, Sheikh Imamoodee.
13, Sheikh Moostee.
14, Ally Careegur.

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Case of MOHUR BEBEE.

The law officer convicted the prisoner of culpable homicide.

I consider the crime to be murder, as the prisoner took her child to the jungle, and there, having dashed it on the ground without effecting her purpose, deliberately strangled it. The plea of insanity, which however she did not herself urge, is quite untenable, Dr. Green, (witness No. 6,) having observed no symptoms. The prisoner has not shown on what provocation she acted as she did, and in her confessions, at the thannah and foujdary, differed as to the cause of her quarrels The confession before the magistrate was proved by one witness only, but as the charge was substantiated, I did not postpone the trial for the attendance of the absent witnesses.

Under all the circumstances, I do not think that an irrevocable sentence should be passed, and would therefore sentence the prisoner to imprisonment for life with labor suited to her sex.

Remarks by the Nizamut Adawlut -(Present: Messrs. A. Dick and B. J. Colvin) We concur with the sessions judge in convicting the prisoner of the murder of her infant child, but as there is evidence that before she committed the deed she had a strong tendency to unsoundness of mind from repeated attacks of hypochondria, we sentence her to imprisonment for life in the zillah jail, with labor suited to her sex at the discretion of the magistrate.

PRESENT:

SIR R. BARLOW, BART., *Judge.*

GOVERNMENT

versus

SHONA HAJJAM.

Hooghly.

1855.

November 3.

Case of SHONA HAJJAM.

Prisoner convicted on his own confession of having belonged to a gang of dacoits, and sentenced to imprisonment and transportation for life. The prisoner, at the time of the trial, was undergoing in the Alipore jail imprisonment for a dacoity, committed by him some years previously, at Sultanpore.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chundersekur Roy, deputy magistrate, under the dacoity commissioner at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 27th September, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits, and he admits his guilt. He was sentenced some years ago for a dacoity in Sultanpore, and his term of imprisonment is still unexpired. The Alipore jail is where he was confined, and some of his old associates being brought there, charged with a recent dacoity, he informed the magistrate of the 24-Pergunnahs, that the new arrivals were dacoits of note, and that he had been in company with them in several expeditions; one of the recently apprehended men committed the Sultanpore dacoity, and having been made over to the sessions on the charge of having belonged to a gang of dacoits, the magistrate of the 24-Pergunnahs, brought forward the prisoner in support of that charge, as a witness; he testified that he was himself an experienced dacoit, and having again admitted the same at his trial, I have not thought it necessary to examine the single witness, whose name appears in the calendar, and who was present, if it had been needed, to depose to the prisoner's participation in several acts of dacoity.

I would convict the prisoner on his own free confession of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoner upon being brought up from the Alipore jail (where he was in prison on conviction of dacoity and sentenced to ten years' imprisonment,) now confesses to numerous other dacoities before the commissioner and the sessions judge, whose recommendation that sentence of imprisonment and transportation for life be passed on the prisoner is upheld.

PRESENT:

SIR R BARLOW, BART., *Judge.*

GOVERNMENT

versus

MOOCHEERAM KHAWRA (No. 1,) AND PURSAUD KHAWRA (No. 2.)

Midnapore.

1855.

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Case of MOOCHEERAM KHAWRA and another.

Prisoners convicted of being by profession dacoits, and of belonging to gangs of dacoits Both prisoners confessed both before the assistant dacoity commissioner and the sessions judge, to numerous acts of dacoity, including one for which they had previously been tried and acquitted for want of evidence. The evidence of the approvers was clear, (as was the documentary evidence) against them. Sentenced to imprisonment in transportation for life.

CRIME CHARGED —Being by profession dacoits, and having belonged to gangs of dacoits

Committing Officer —Lieut. C. H. Keighley, assistant general superintendent and assistant dacoity commissioner and joint-magistrate of Midnapore.

Tried before Mr W. Luke, sessions judge of Midnapore, on the 17th September, 1855

Remarks by the sessions judge.—The prisoner No. 1, Moocheeram Khawra, confesses to having been concerned in twelve and the prisoner Pursaud Khawra, No. 2, in thirteen separate instances of gang-robbery

Their confessions were repeated in this court and are corroborated by the approvers, witnesses Nos. 7, 8, 9 and 10, and the documentary* evidence noted in the margin.

* *Nuthee* No. 75, dacoity in the house of Bissonath Sawant

Nuthee No. 340, dacoity in the house of Niteanund Kodul

Nuthee No. 483, dacoity in the house of Dulal Doss.

Both these prisoners† were tried in this court in August, 1836, on a charge of dacoity attended with murder in the house of one Nowaboodeen, and were acquitted for want of evidence. They now acknowledge their participation in it, and there is no reason to doubt the truth of their statements either in reference to this particular case, or to the other numerous crimes, which they describe in detail.

I accordingly convict them on the charges on which they have been arraigned, and recommend that they be sentenced to imprisonment in transportation beyond seas.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The Court sentence the prisoners, as recommended by the sessions judge, to imprisonment for life in transportation, on their own confessions recorded before the dacoity commissioner and in the sessions court.

† They were denounced dacoits in some confessions made in the Hooghly court as far back as December, 1843.

PRESENT:

SIR R. BARLOW, BART., *Judge*.

GOVERNMENT

versus

GOOY MUSSULMAN.

Hooghly.

1855.

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Case of GOOY MUSSULMAN.

Prisoner, apprehended on the testimony of approvers, confessed before the dacoity commissioner, and before the sessions judge admitted his previous confession. He was a noted bad character, having frequently been under security for good behaviour. Sentenced to imprisonment in transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chundersekur Roy, deputy magistrate under the dacoity commissioner at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 10th September, 1855.

Remarks by the additional sessions judge.—The prisoner was represented in the confessions of several approvers as a dacoit by profession. He was accordingly seized and brought before the commissioner for the suppression of dacoity. He made an early confession of all his crimes, and he has accordingly been made over to stand his trial on the general charge of having belonged to a gang of dacoits.

Two approvers, who had originally denounced the prisoner, have been produced in support of the charge now preferred against him. They each give an account of the same two dacoities, in which they affirm that they were accompanied by the prisoner. He admits in his confession that he joined in one of the said two dacoities, viz., in that which took place in the house of Dost Mahomed of Poottea, on the 7th September, 1853. Besides this case, the prisoner confessed to thirty other dacoities, in some of which he was arrested, but always escaped from want of adequate proof. He has besides been frequently under security for good behaviour, having been known to the police as a noted bad character.

His confession before the dacoity commissioner has been attested and proved by the witnesses before whom it was delivered.

The prisoner pleads guilty to the charge, admits his confession before the dacoity commissioner and declines making any defence.

I would convict him of having belonged to a gang of dacoits, and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.- (Present: Sir R. Barlow, Bart.) Under the above circumstances, the Court sentence the prisoner, Gooy Mussulman, to imprisonment and transportation for life.

PRESENT:

H. T. RAIKES AND J. H. PATTON, Esqs., *Judges*.

GOVERNMENT AND BIRMO AURAT

versus

RAMSOONDER BAGCHEE (No 11.) BYDINATH BAGCHEE (No. 12,) POOLINCHUNDER BAGCHEE (No. 13,) AND JOYTARA DEBIA (No. 14.)

Rajshahye.

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Case of RAMSOONDER BAGCHEE and others.

The prisoners were acquitted by the Nizamut Adawlut on the ground that with the exception of the evidence of the approvers, there was *no* reliable evidence against them. The testimony of the approvers, though probably correct and true, was not, (as it was not corroborated by other evidence) legally sufficient to authorize conviction.

CRIME CHARGED.—1st count, Nos. 11 to 13, wilful murder of Ramkoomar Chung; 2nd count, being accomplices in the above crime, and No. 14, being privy to the above crime.

Committing Officer.—Mr. E. S. Pearson, joint-magistrate of Pubna.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 11th September, 1855.

Remarks by the sessions judge.—The *futwa* finds the offence to be culpable homicide and the prisoner No. 11, guilty of the killing; Nos. 12 and 13, of aiding and abetting therein and No. 14, of privity to the homicide.

I hold the offence to have been murder, and that the prisoner No. 11, was a principal. Nos. 12 and 13, principals in the second degree and the female prisoner, though only incidentally privy, was the cause of the murder being committed, hence the reference.

The circumstances were briefly as follow:—

No. 14, is the wife of one Sham Bagchee, a brahmin, Nos. 11 and 12, are Sham Bagchee's brothers, and No. 13, a cousin, and all lived in the same homestead. On the night of the 1st July, or early in the morning of the 2nd, the deceased was caught in the house of No. 14, by the other prisoners and then and there beat by them in various parts of his body and more particularly on the *membrum virile* and when dead, or at the last gasp, was carried out of the house and thrown by the prisoners Nos. 11, 12 and 13, with the assistance of two servants of the first named prisoner, into a hollow called a *matteal* near a *gollabaree* or farmstead of the prisoners, and where his body was found the next morning, exhibiting marks of violence (which will be presently described) with a cloth on the upper part of the body, but none over the loins or private parts.

Intimation of this was given to the darogah, who, being in the vicinity, immediately proceeded to the spot; and on his interrogating the deceased's wife, a young person of fourteen or fifteen years of age, she suspected the prisoners together with her husband's fellow-servants of the murder, as the deceased had a *liaison* with Sham Bagchee's wife, and had told her he

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had. This led to the apprehension first, of the persons who were sleeping or living in the *gollabaree* with the deceased, who were made approvers by the joint-magistrate, and deposed as follows in this court.

Witness No. 1.—This witness, after being duly cautioned, deposed that he was a servant of the prisoner No 11, and having eaten at the house, was sleeping in his *gollabaree* with Jana Sheikh, Purlad Chung and Jumeer Chokra; that Ramkoomar, the deceased, after coming to the *gollah,* went back to the dwelling-house on the plea of getting some *pán*, but did not return. At twelve at night, No. 11, came from Bejoy Gobind's house, and then with a *jaree* or water-pot in his hand came to the *gollabaree* and calling witness and Jana, they followed him to the house, and on being told, stood at the door of the female apartment, while No. 11, went and called Nos. 12 and 13, from the *barbaree,* after this, they entered the house (occupied by the female prisoner No. 14,) and perceiving the deceased, asked him what business he had there, saying, "You are a *chundal* and we are *brahmins*, why do you come to our house?" and on asking No. 14, how he came there, she replied, he had come of his own accord (*Khâmákú ámár ghare ashiáchhe*) The prisoner No. 11, then said, Let the *sállá* be killed and thrown away (*máriá phelo.*) On this, Nos. 12 and 13, threw him down and No. 12, gagged his mouth with a cloth, No. 11, then brought a *kytea*, or log of wood, and began to strike the deceased on the *penis*. They all trod on him with shoes on their feet. After this, they all, including witness and Jana, dragged away the corpse and threw it into a hollow or *matteal*, made from excavating earth. They were then told not to tell any one what had been done, and returned and slept at the *gollabaree*. To questions put, the witness deposed, the log of wood was outside, under the eaves of the house used as a kutcherry, and was brought by No. 11. No other weapon or instrument was used to strike deceased. The *gámchá* twisted round his mouth was the deceased's own. When asked why he had come to the house, the deceased made no answer. He (witness) had been five or six months in the Bagchee's service and received one rupee *per mensem* as wages with clothes, and was employed in ploughing and farming pursuits. The deceased was beat inside of the house and No. 14's husband was absent at the time.* This house was a considerable distance from where they slept, or four or five *russees*. The deceased died *then*, or when beat.

He held the left leg of the deceased, and Jana the arm, and the Bagchees the head and different parts when the body was carried out. There was a tank near, but cannot say if the other prisoners bathed. After this, they went towards the house, and he to the *gollabaree*. No. 14, never told them not to beat the deceased, but sat silent on a *cot*. What he saw, he saw from the open door, the de-

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ceased was on his back, nothing was placed under his *penis*, when blows were inflicted on it with the *kytea*. There was a cubit and a half of water in the *matteal*, in which the body was thrown, knew of no *amour* the deceased had with Adooree and Unna; nor had he any quarrel with the deceased that day in the fields, who did not go to the fields, but did domestic work. Was examined by the darogah the day after his arrival, and till he came mentioned to no one what occurred, he was sent to the fields (to work). The *kytea*, or log of wood, was brought from Bhowaneepore, and was before at the *gollabaree*.

Witness No. 2 —This witness, who was quite a youth, deposed to the same effect. To the deceased leaving the *gollabaree* on the plea of getting some *pán*, when the rest went to sleep. To No. 11, coming and calling him and witness No. 1, and then calling the prisoners, Nos 12, and 13, all then entered (i. e. No. 14's room) and found the deceased standing in a corner and No. 14, was sitting on the *cot*. After this, the deceased was told he had done injury to their caste, they being *brahmins* and he a *chundal*, and immediately a *gumcha* was thrown over his mouth. and he was thrown down; Nos. 12, and 13, then trod on him with their shoes on, and No. 11, bringing a *kytea*, struck him on the *penis*, the left shoulder, and chest, with the *kytea*, after this they took up the deceased and threw him into the water in the *matteal*. Deceased was then alive, but died as they were taking him away, became aware of the fact from his giving a groan. When deceased was asked how he came there, or in the house, No. 14, was present, she said nothing or did she tell them not to beat him. When he was taken with Nobin to the house, they were only told some one had gone into the house. The log of wood was near the door of the house, where deceased was beat, and the kutcherry adjoined. No other weapon or instrument was used to beat the deceased; his *gumcha* was used to gag him; and he made no reply when No. 11, accused him of injuring his caste by coming to the house occupied by No. 14. He (witness) had been one year in the employ of No. 11, and received 12 annas *per mensem* and clothes and food, and was servant to them all, (this the other witness also stated he was). What he saw, he saw from the door of the house. He and Nobin held the deceased by the left arm and leg, the Bagchees held different parts, when he was carried out. He returned to the *gollabaree*, the prisoners going to their houses. The deceased had no intrigue with any other woman. Unna's house was a long way off. There was no light in No. 14's room when deceased was beat. He was examined the day after the darogah arrived.

These two witnesses were the first apprehended by the darogah on his arrival, and confessed to being present, when the deceased was beat and killed, and to assisting the others in

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removing his body. They were immediately sent to the joint-magistrate, and on the 4th of July, confessed to their complicity in the deceased's death. On the 27th of July, they were made witnesses, and examined *de novo*, when they adhered to their former statements, and the depositions given by them, in this court, vary little from what they had previously said. Nobin, like Jana, however, in his former examinations, deposed the deceased was not dead when he was carried out of the house; but to elicit how he knew this, no question was put to him; and at any rate he must have been senseless, if not dead, and probably the witnesses did not discover the difference in the weight of the body when the vital spark left the body.

I consider the evidence of both consistent and concordant with the probable facts; and, from the way both witnesses gave their depositions, am satisfied they were not tutored or tampered with by the police; and though against rule, they have been at large since they gave their depositions before the joint-magistrate or since the 27th of July.

Witness No. 3.—This witness having made contradictory statements regarding whose body he saw the prisoners carrying to the *matteal*, I pass him over. I, at the same time, suspect he knew *more* of the matter, than he has either deposed to in this court or the joint-magistrate's.

Witness No. 4. –All this witness deposed to was she had two years before an intrigue with the deceased, who left her for the Bagchee's wife, she never heard of his having any intrigue with Unna Bewah. This witness was not less than forty years of age; of no prepossessing appearance; and had no teeth in front, and the darogah stated, that having no heirs or any one interested about her, it was not at all likely any one would kill her paramour or the deceased for her sake or from rivalry.

Witness No. 14.—This witness was deceased's mother-in-law, and mother of the co-prosecutrix; but quite an imbecile and nothing could be got out of her.

Witness No. 16.—Recognized the log of wood, or *kytea* found by the police in a tank (after the two first witnesses were sent in) and saw it before at Sham Bagchee's house. It was used to cut tobacco upon.

Whether this was or was not the log, or piece of wood, used to strike the deceased, is very immaterial. What was used must have been some blunt instrument, from the wounds the body exhibited, when taken out of the hollow or *matteal*, and the two first witnesses deposed that the log used was quite convenient or close to the door of the room occupied by Sham Bagchee's wife.

Moulvee Derasutoollah.—This is the darogah of Pubna and whom I examined carefully to the finding of the body, the log of wood and other circumstances of the case. His deposition is a long

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one, but his evidence may safely be relied on. And anticipating the defence that would be set up, I particularly asked if any *alibi* had been set up by any of the prisoners, and if Bejoygobind Chowdree, the zemindar (and in whose service Nos. 11, and 12, were) had said any thing about the former being at his house, on the night the deceased must have met his death, and he replied, not a word, though he had gone to meet the Chowdree in his own house. The darogah gave it as his opinion, that the deceased must have come to a violent death; and that the marks and appearances on the body, must have been caused by blows inflicted on the deceased's person when alive.

Witnesses Nos 1 to 7.—These four are witnesses to the *sooruthal* or inquest on the body, all spoke to the marks of blows and more particularly witness No. 1, and those on the *penis* were not caused by the venereal disease, but from blows on the *membrum*, all of them recognized the body as that of Ramcoomar Chung, whom they knew when alive.

The prisoners' defences were then taken, but in the inverse order to that in the calendar.

No 14, gave in a petition, referring to one of No. 11, and which (when asked) she admitted she had not seen, she stated her witnesses would prove she had no *liaison* with the deceased, and he being a Chundal, it was not likely she would intrigue with him.

No. 13, gave in a petition to the effect that he was all night in his own house, and the darogah's report was all false.

No. 12, also gave in a petition to the effect that he was in the house of Kishenchunder Lawree on the night of the occurrence, and had taken a decree of the sudder Court to him to be translated into Bengali for the Baboo, or Bejoy Gobind. But if so, and he performed his errand, what was the necessity of his sleeping there, when his house was so close?

No. 11, likewise gave in a petition to the effect that the deceased had been made away with by Nobin and Jan Mahomed, and this because he had reprimanded them for being idle, on a representation made to him by the deceased, and that on the night of the deceased being killed, he had been playing at cards with Bejoy Gobind Chowdree, till 1 o'clock, with others, and afterwards he slept at his house. That next day, on hearing of the body of the deceased being found in the *matteal* near the *gollabaree*, he suspected Nobin and Jana, and detained them in custody, and made them over to the police. He also had mentioned his (deceased's) having an intrigue with Adooree Bewah, but this had not been written down or recorded by the darogah. That the charge brought against him was at the instance of Obhoy Gobind and Chundermonee, share-holders in the Tanteebund zemindaree, who had got Nobin and Jana to make false confessions, and the dates on which they were taken down

had been altered by the darogah. That the piece of wood had been long under water, and this his witnesses would prove. Several discrepancies in the evidence are also pointed out. The prisoners had mokhtears or agents to defend them, and the petitions most likely were prepared the day the evidence for the prosecution (ending with the darogah's) was concluded or after the first day of the trial.

Witness No. 17.—This witness was the zemindar of Tanteebund, Bejoy Gobind Chowdree, who on being called in was given a chair and deposed. That No. 11, was playing at cards with him till 1 o'clock at night, and this he knew by his watch. That he did not mention the circumstance to the darogah, as the darogah put no questions to him on the subject, and he did not expect to be made a witness. The darogah came to him, after No. 11, was apprehended on suspicion of being concerned in the murder, and this he was aware of, but through fear of being made a witness he said nothing. After the card-playing, the prisoner slept in some other house with the *omlah*, and next morning he saw him at the house. That he did not suspect Obhoy Gobind or Chundermonee of getting up the case, or charge against his servants through enmity, or that they would go to such lengths "to hang a brahmin." The prisoners' *gollabaree* belonged to *all* the share-holders, and between his house and the Bagchees there was a tank, and the way or road to the latter was round the tank. His house was guarded by burkundazes, and there was an order not to allow any one to go out at night without his permission, the order was general and no exception was made in favor of his *omlah*.

The prisoner examined eight other witnesses, who deposed to the above effect; but none of them were questioned as to the deceased having met his death in an intrigue with the widow Adooree, or that the prisoner represented to the darogah he had reprimanded the two first witnesses, who in consequence owed deceased a grudge, and there was bad blood between them.

No. 12, examined four witnesses to his *alibi* or his being present at Kishenchunder Lawree's house, eight or ten *russees* off. The Lawree himself giving evidence to the plea set up.

No. 13, examined no less than fifteen witnesses, and which would be overwhelming if it had not been patent to every person in court that nearly all of them had been tutored what to say. Again all they proved was, that he slept in his own house only a few yards from Sham Bagchee's, or where the deceased was killed, who never uttered a sound, or did any one call out that he was being killed. Therefore the inmates of the prisoner's house (if there were any) could not have heard what was going on in the room occupied by Sham Bagchee's wife.

The witnesses to the defence of the female prisoner were merely examined to her having the reputation of being a chaste

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and honest person, and as they were mostly Bagchees or brahmins, they naturally would say she was, though circumstances were so strongly against her.

There appear to have been no other females in the houses or in the *under* apartments. All the male prisoners being unmarried, No. 14 was not only left alone (if the other two had gone elsewhere as alleged) but could easily admit any paramour she chose, her husband being also absent from home. The standard of virtue among native females is not a high one; though I do not mean to say they are *all* unchaste; far from it, and if the practice of *suttee* was restored, scores would resort to it again, on the death of their husbands, to show by precept that they were chaste.

"Chaste as the icicle
"That's curded by the frost from purest snow,
"And hangs on Dian's temple."

But in the present case there has been so much silence when the first enquiry was held by the police, and so much evidence brought forward to rebut the charge, and now after a lapse of two months, that I cannot but agree, both with the joint-magistrate and law officer, that the evidence to the defence, or that adduced by the three male prisoners is not deserving of the least credit.

The evidence of the two witnesses to the fact may be suspicious, because they admitted they were *particeps criminis* and then were made approvers. But the whole tenor of their statements is borne out by the circumstantial evidence. The deceased was either killed when intriguing with another man's wife, and a Brahmin's or with a widow (or two widows) but to the latter fact not a tittle of evidence has been brought forward, or a suspicion thrown out, except by the prisoners themselves, and having raised the plea in defence they were bound to prove their assertion, but have not attempted it.

The *futwa* of the law officer finds the offence only culpable homicide, according to the Mahomedan law, and declares No. 11, liable to *acoobut* and the other three to *tazeer*.

I hold the offence to have been murder under extenuating circumstances, the deceased being found in the apartment of the wife of a relation, under very suspicious circumstances, at night, and giving no answer when questioned why he had gone there. The presumption is, that he went to have illicit intercourse with the Bagchee's wife (if he had not already enjoyed her favors when discovered.)

Taking this view of the case, I would convict No. 11, of being a principal in the first degree and recommend his being sentenced to imprisonment for life in transportation.

Nos. 12 and 13, as aiding and abetting in holding down the

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deceased till he was beat to death, are deserving of the same punishment, but adverting to the nature of the *futwa, in their favor*, and the youth of No. 13, I would propose that they both be sentenced to fourteen years' imprisonment with labor and irons.

No. 14, there can be no doubt was the *cause* of all. (In all Pubna cases for murder, a woman, or a dispute about land and its produce invariably is the motive to the commission of the murder.) There can be no doubt she was privy to the murder of her paramour *incidentally*, or because she could not help herself. She has brought disgrace on her family by her conduct, and they no doubt will make her an outcaste. I think the ends of justice would be satisfied if she was sentenced to a short period of imprisonment, say six months, and detained in the Pubna jail.

With this opinion, I leave the case of the prisoners in the hands of the Court; all are in jail, except the female prisoner who, I have again directed, should be bailed pending the final orders of the superior Court.

I perceive, I have not in this report alluded to the sub-assistant surgeon not being examined. Before the joint-magistrate, he deposed he could not give any distinct opinion as to the cause of the deceased's death. Only that "he must have met a violent death." Now, this we gathered from the evidence of the darogah, as well as the witnesses to the *sooruthal-lash*, consequently it appeared to me unnecessary to call upon him to give any evidence in this court, as he could not prove *more* than had already been proved.

I must conclude with one remark, relating to the police. The darogah was formerly of the first grade, applied and was made a Pergunnah Cazee at Rungpore, resigned and again took employ in the police, and has been recommended for the first grade again by the present joint-magistrate of Pubna, so (as already stated) reliance may safely be placed on his evidence, as well as the facts reported by him.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The judge considers these prisoners guilty upon the evidence of the approvers, Nobinchunder Das and Jana Sheikh, but he has relied upon their statements *alone* without a particle of corroborative evidence in support of them. The only witness whose deposition might have been taken to support the story of the approvers is, that of the witness Pertab Chung, whose testimony has been rejected by the sessions judge as open to question. We concur with the sessions judge that the evidence of this man is not trustworthy. He must have fallen under suspicion equally with his fellow-servants, the approvers, and no doubt the same cause which led to their apprehension, must have placed him in the same posi-

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tion. The evidence, therefore, tendered by him on 4th July, after the other prisoners had been sent into the station, would, under any circumstances, be suspicious, but as he differs in his account of material facts at the several stages of his examinations, he cannot, in our opinion, be trusted at all. The statement of the approvers, therefore, stands entirely unsupported, and though consistent in itself, and possibly correct, is not legally sufficient for the purposes of conviction. We must, therefore, acquit the prisoners for want of proof.

PRESENT:

A. DICK, Esq., *Judge*.

Nuddea. 1855. November 3. Case of Gungadhur Ghose and others.

Prisoner No. 1, convicted of cattle-stealing in all 5 cases. Prisoner No. 2, convicted of knowingly receiving, and keeping in possession, cattle obtained by theft in trials (1), (4) and (5). Sentenced to four and two years' imprisonment with labor and irons respectively. Sentence of sessions judge upheld on appeal.

TRIAL No. 1.

SHAM GHOSE AND GOVERNMENT

versus

GUNGADHUR GHOSE (No. 9.) RAMCHAND GHOSE (No. 10.)

TRIAL No. 2.

GRIDHUR CHUNG AND GOVERNMENT

versus

GUNGADHUR GHOSE (No. 4.)

TRIAL No. 3.

BAWOOL CHUNG MUNDUL AND GOVERNMENT

versus

GUNGADHUR GHOSE (No. 1.)

TRIAL No. 4.

DAMODUR BISWAS AND GOVERNMENT

versus

GUNGADHUR GHOSE (No. 7,) RAMCHAND GHOSE (No. 8.)

TRIAL No. 5.

GOOROOCHURN CHUNG AND GOVERNMENT

versus

GUNGADHUR GHOSE (No. 11,) RAMCHAND GHOSE (No. 12)

CRIME CHARGED.—*Trial No.* 1, 1st count, theft of one cattle the property of Sham Ghose valued at Rs. 8; 2nd count, prisoner No. 10, knowingly receiving and keeping in possession cattle obtained by theft.

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Case of GUNGADHUR GHOSE and others.

Trial No. 2.—1st count, theft of one cattle the property of Gridhur Chung valued at Rs. 10; 2nd count, knowingly receiving and keeping in possession cattle obtained by theft.

Trial No. 3.—1st count, theft of cattle the property of Bawool valued at Rs. 55; 2nd count, knowingly receiving and keeping in possession cattle obtained by theft.

Trial No. 4.—1st count, theft of one cattle the property of Damodur valued at Rs. 6; 2nd count, prisoner No. 8, knowingly receiving and keeping in possession cattle obtained by theft.

Trial No. 5.—1st count, theft of two cattle the property of Gooroochurn valued at Rs 20; 2nd count, prisoner No. 12, knowingly receiving and keeping in possession cattle obtained by theft.

CRIME ESTABLISHED.—*Trial No.* 1, prisoner No. 9, cattle-stealing, prisoner No. 10, knowingly receiving and keeping in possession cattle obtained by theft.

Trial No. 2, cattle-stealing.

Trial No. 3, ditto ditto.

Trial No. 4.—Prisoner No. 7, cattle-stealing, prisoner No. 8, knowingly receiving and keeping in possession cattle obtained by theft.

Trial No. 5.—Prisoner No. 11, cattle-stealing, prisoner No. 12, knowingly receiving and keeping in possession cattle obtained by theft.

Committing Officer.—Mr. A J. Elliot, magistrate of Nuddea.

Tried before Mr. R. M. Skinner, officiating sessions judge of Nuddea, on the 11th August, 1855.

Remarks by the officiating sessions judge.—*Trial No.* 1, I concur with the law officer in considering the theft of the plaintiff's ox proved against Gungadhur Ghose, by his own confession in the mofussil before witnesses* who came up when he was seized by chowkeedars,† and also before the jemadar,‡ which led to the apprehension§ of Ramchand Ghose with the aforesaid and other cattle, which have been duly identified:‖ and count 2 is proved against the said Ramchand Ghose: but, as other trials are pending against these prisoners, I postpone order of punishment.

* No. 4, Ramroodra.
,, 5, Bawool.
† ,, 1, Edoo.
,, 2, Joindee.
,, 3, Teelok.
‡ ,, 7, Jikobdee.
§ ,, 9, Esum.
‖ ,, 10, Bungsi.
,, 11, Odai.

Trial No. 2.—I concur with the law officer in considering the 1st count proved against prisoner No. 4 (Gungadhur Ghose); I postpone orders against him as he is under trial in four other cases.

Trial No. 3.—Concurring with the law officer in considering the crime, count 1, proved against Gungadhur Ghose, who is under trial in other four cases, I postpone sentence against him.

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Case of GUNGADHUR GHOSE and others.

Trial No. 4.—I concur in opinion that prisoner No. 7, Gungadhur is guilty of theft of plaintiff's ox which, together with cattle of Sham Ghose and Gooroochurn, was found with Ramchand Ghose, prisoner No. 8, in consequence of prisoner No. 7, having informed witnesses* that prisoner No. 8, had taken them. Prisoner No. 7, confessed before the jemadar:† and prisoner No. 8, was found with the plaintiff's ox and other cattle, which have been duly identified,‡ sentence will be passed on completion of the trial calendar No. 5. Plaintiff Gooroochurn in which these prisoners are under trial.

* No. 1, Edoo.
,, 2, Teelok.
,, 3, Joindee.
,, 4, Ramroodra.
,, 5, Bawool.
† ,, 7, Jikobdee.
,, 9, Esum.
‡ Witnesses Nos 4 and 5.

Trial No. 5.—It is proved from evidence of three witnesses§ that Gungadhur Ghose was apprehended in the act of driving off four oxen belonging to Bawool Chung|| (witness No. 11,) and one ox belonging to Gridhur Chung.¶ Other witnesses* came up, hearing a noise, and saw the prisoner aforesaid with the said cattle which they identify as belonging to Bawool Chung and Gridhur Chung aforesaid, and they ran on with witnesses Nos. 1, and 3, in pursuit of other thieves who were running off. Other witnesses† as well as plaintiff (Gooroochurn) saw the said prisoner and these five cattle in custody of witness No. 2, and heard prisoner No. 11, say that Ramchand Ghose prisoner No. 12, had taken others. They went, witnesses Nos. 1 and 2, after the said Ramchand Ghose, prisoner No. 12, and found him driving two cattle belonging to Gooroochurn,‡ and one belonging to Damoodur, and one belonging to Sham Ghose.§ Soney Chowkeedar, No. 7, of the village where prisoner No. 12 resides, came up, and informed at the pharee, and the zemindar was deputed to enquire, &c. Gungadhur Ghose, prisoner No. 11, confessed before the jemadar (witness No. 7, of Calendar No. 2,) and the confession has been duly attested by witnesses.|| The cattle found with Ramchand Ghose, prisoner No. 12, have been duly identified by witnesses Nos. 1, 2, 3, 4, 5, 6 and 11, as well as by Bungsi Biswas and Adar Ghose, in calendar No. 4: and the occurrence of the thefts of the cattle be-

§ 1, Edoo
2, Joindee.
,, 3, Teelok.
|| Plaintiff in Calendar No. 1
¶ Plaintiff in Calendar No. 2.
* No. 5, Asgur.

† No. 4, Ramroodra.
,, 11, Bawool Chung.

‡ No. 5, Calendar.
§ ,, 3, Calendar.
|| ,, 4, Ditto.

Witness No. 8, Jikobdee.
,, ,, 10, Elum and Hur-Mohun Roy Jemadar.
,, ,, 12, Bhoirub.
,, ,, 13, Mohes Chung.

longing to the different plaintiffs has been duly vouched for by th plaintiffs and by witnesses. I concur with the law officer in convicting prisoner No. 11, Gungadhur Ghose of the "theft of cattle;" count No. 1, in this calendar as well as in calendars Nos. 1, 2, 3 and 4; I also convict Ramchand Ghose prisoner No. 12, of count 2nd, "knowingly receiving and keeping in possession cattle obtained by theft;" in this case and also in calendars Nos. 3 and 4; I sentence Gungadhur Ghose, to three years' imprisonment with labor in irons, for cattle-stealing, and I sentence Ramchand Ghose to two years' imprisonment with labor in irons for knowingly receiving and keeping in possession cattle obtained by theft.

Case of GUNGADHUR GHOSE

Remarks by the Nizamut Adawlut.--(Present: Mr. A. Dick.) After a careful perusal of the records of the trials in which the prisoners appellants, Gungadhur and Ramchand, have been convicted, I see no reason for interference

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND BUSHEEROODDEEN

versus

NILMONEE DAKOAH, (No. 3,) JHURROO DAKOAH (No. 4.) MOMUN DAKOAH (No. 5.)

Backergunge

November 5.

Case of NILMONEE DAKOAH and others.

The Court considered the sentence passed by the sessions judge inadequate. No. 3, convicted of being an accomplice in culpable homicide of deceased and of riot attended with wounding, and

CRIME CHARGED. —1st count, willful murder of Meajan; 2nd count, riot attended with the culpable homicide of Meajan and the wounding of Shuriutoollah and Kalye.

CRIME ESTABLISHED. —1st count, No. 3, being an accomplice in the culpable homicide of Meajan; 2nd count, riot attended with the culpable homicide of Meajan, and the wounding of Suriutoollah and Kalye; Nos. 4 and 5, riot attended with the culpable homicide of Meajan and wounding of Suriutoollah and Kalye.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 12th May, 1855

Remarks by the sessions judge.—The prisoners plead *not guilty.* It appears that the deceased, the brother of the prosecutor, who is a gomashta in the service of Poorno Luckhee Debeea, was deputed with Omed Allee and Suriutoollah to Chur Kishto Katee to collect rent. The prisoners reside at Kishto Katee, they were not at home but were found in their field weeding, they had hoes in their hands. The deceased asked

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Case of NILMONEE DAKOAH and others.

seven years' imprisonment with labor and irons, Nos. 4 and 5, convicted of riot attended with culpable homicide and wounding, and sentenced to three years' imprisonment with labor and irons.

for the rent due, words followed, at last it was agreed that the rent should be paid and the prisoners Nos. 4 and 5, went away saying that they were going to bring the rent. A long time elapsing, the deceased and his party began to get impatient and were proceeding homewards, when prisoners Nos. 4 and 5, accompanied with some twenty men came up, the deceased and his party were then attacked. The deceased was struck twice on the head with a hoe, the first blow was inflicted by Modhoo Dakoah, (since deceased,) son of the prisoner No. 3, and the second blow by the prisoner No 3. The deceased fell down senseless and never spoke again and died the next day. The witness No. 1, Shuriutoollah, was wounded in the leg by blows inflicted by the prisoner No. 3, with a hoe; Kalye, witness No. 2, who attempted to interfere, was also slightly wounded. The prisoners Nos. 4 and 5, were present aiding and abetting in the riot. The evidence of the medical officer proves that death was caused by the injuries on the head, the parietal bone was broken and the brain injured. The hoe produced in court is the common hoe of the country used in weeding, the blows were struck with the back part, the ring of the hoe, which presents a blunt surface.

The evidence is clear and amply sufficient for conviction. The prisoners cited witnesses to their defence but they prove nothing.

The *futwa* convicts the prisoner No. 3, of being an accomplice in the culpable homicide of the deceased, of wounding Shuriutoollah, and of riot in which Meajan, the deceased, was killed, and Shuriutoollah and Kalye were wounded. Concurring in the *futwa*, I have sentenced the prisoners as follow.

Sentence passed by the lower court.—No. 3, to be imprisoned for seven years and Nos. 4 and 5, each for three years, all with labor and irons

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The Court see no reason for interference. The prisoners' witnesses have totally denied all knowledge of the circumstances alleged by them in their defence.

The Court are of opinion that the heinousness of the crime, of which the prisoners have been found guilty, deserved a heavier punishment than that awarded by the sessions judge.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

LUTCHMUN KADIR (No. 1,) BUNGLEEA ALIAS BUNGALEE (No. 2,) AND GUNGWA (No. 3.)

Bhaugulpore.

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November 5.

Case of LUTCHMUN KADIR and others.

The assertion of No. 1, that the deceased had "*behoormutted*" his daughter was not borne out. If any criminal connection took place, it was evidently with the acquiescence of the girl herself. On the ground that there was only just sufficient provocation to bar a capital sentence, the prisoners were sentenced to transportation for life.

CRIME CHARGED.—Wilful murder of Gunnoo Gosye deceased.

Committing Officer.—Mr. C. E. Chapman, assistant, exercising the full powers of magistrate at Bhaugulpore.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 15th September, 1855.

Remarks by the sessions judge.—This was a case of murder committed upon a pilgrim travelling to Juggernath. It appears from the evidence of the witnesses that he arrived at Kallee Khan, in the jurisdiction of the Boonsee thannah, on the 27th of June. and that the following day he was attacked by the three prisoners, in consequence of their believing he had insulted Musst. Gourееa, the daughter of No. 1, and sister of the other two men.

The witnesses (Nos. 1, 2, 3, 4, 5, 6 and 7.) clearly depose to the prisoners beating the deceased until he died. There are some discrepancies in the evidence of Choongoo No. 4, and Muthoor No. 7, but not sufficient to affect credence in the assault and its consequences.

Nos. 1, 3 and 8, are witnesses to the *sooruthal*, and describe the body to have shewn the marks of severe beating, but unfortunately it was too much decomposed for the doctor to examine it and state the actual cause of death, although he observed marks of violence on the face; Nos. 1, 8, and 10, witnessed the confession of prisoner No. 1, in the mofussil, and Nos. 11, 12 and 13, witness to his confession before the magistrate, in both of which he admits that he and others inflicted the beating from which deceased died.

Nos. 1, 2 and 3, witnessed the finding of the deceased's cloth, which was recognized by witness No. 14, in the house of Lutchmun No. 1.

The girl Goureea states that on the morning of the occurrence, she met the deceased, but that he never spoke to her, and that the depositions recorded at the thannah and foujdary court are not her's.

The other two prisoners deny before the lower court and state that their father, No. 1, killed deceased. All the prisoners plead *not guilty* before the sessions court, and in his defence

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Lutchmun No. 1, states that the Faquir *behoormutted* his daughter, and he made him over to the police, and that after three days the charge was made against him, that the confession at the thannah was extorted by torture, and that he knows nothing of the man's death or the confession at the magistrate's court, he produced five witnesses who know nothing of the ill-usage and merely confirm the fact of his confession. No. 2, Bungalee and No. 3, Gungwa deny in toto and offer no defence.

The jury, Bhuttoo Sahoo, Nunkoo Rai and Motee Sahoo, concur in a verdict of wilful murder against all three, and I agree.

There is no reason to suspect that the prisoners ever saw the deceased before, or that any malice or ill-will existed before the time of the occurrence; I myself believe that the deceased did speak to the girl Gourcea as she said before the darogah and magistrate, and that in consequence the prisoners attacked him, the usage, however, was not unjustifiable, even had he, as Lutchmun asserts, *behoormutted* the girl, which from the doctor's evidence and the girl's own statements it is clear he did not.

I would recommend a sentence of fourteen years with labor and irons being passed on Lutchmun, and twelve years with labor and irons on the other two prisoners.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We cannot accept the defence of the prisoners to the full extent pleaded. The circumstances, as far as we can judge of them from the evidence, by no means warrant the belief that the deceased was attempting to violate the person of the girl Gourcea. The spot where the prisoners say they discovered the deceased is in the immediate vicinity of the house where her relatives were at the time, and it is also stated that her aunt accompanied her into the orchard. It is impossible to suppose that any one would have attempted an act of open violence under such circumstances. Moreover the girl herself, neither before the police nor the magistrate, asserts that the deceased did more than solicit her acquiescence. He was a man of fifty years of age and the girl is stated by the surgeon not to have been a virgin and to have had no marks of violence on her person. The utmost we can believe in favor of the prisoners is, that the girl had surrendered herself to the deceased with her own consent and was taken in the fact by her near relatives, the prisoners, who chased the deceased into an adjoining *dhan* field and took summary vengeance by beating him to death. Giving all consideration to a provocation of this nature and the absence of previous malice, we still consider that the crime merits a sentence only short of capital punishment. We therefore convict the prisoners of murder, and sentence them to transportation for life.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND RAMLALL GHOSE

versus

GORAI MONDUL, (No. 22,) ZEMIR MONDUL, (No. 23,) AMIR MONDUL, (No. 24,) BHUGAI MONDUL, (No. 25,) PAHAR KHAN, (No. 26,) MITOO BISWAS, (No. 27,) MOLAMDI MONDUL, (No. 28,) BUSSARUT MONDUL BISWAS, (No. 29,) MOIDI MONDUL, (No. 30,) TOKI MAMOOD MONDUL, (No. 31,) JOORAN BISWAS, (No. 32.)

Jessore.

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Case of GORAI MONDUL and others.

The prisoners in this case were released, on the ground that they had done nothing that was unjustifiable. They had only resisted when the people of a certain factory attempted forcibly to sow their land. It further appeared that the death of the deceased might have occurred from some cause quite independent of the alleged riot. There was no proof to connect the prisoners with anything worse than the assertion of the

CRIME CHARGED.—1st count, Nos. 22 to 32, riot attended with the culpable homicide of Suroop Ghose, and wounding of Tarachand Biswas; 2nd count, riotous assault with wounding of Suroop Ghose and Tarachand Biswas; 3rd count, Nos. 26 to 32, being present aiding and abetting in the above culpable homicide and wounding.

CRIME ESTABLISHED.—Nos. 22 to 25, riot and aggravated assault and Nos. 26 to 32, aiding and abetting in the same,

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. W. O. Malet, sessions judge of Jessore, on the 17th August, 1855.

Remarks by the sessions judge The deceased, who was in the employ of an indigo-planter, was sent with others to sow some land under contract to the factory; but which the ryot in whose *jote* it was, had refused to cultivate; on arriving at the ground he was met by the ryot, who endeavoured to persuade him not to do so, but which, notwithstanding these remonstrances, he did. The ryot retreated to his village and shortly returned accompanied by his two sons and a servant, and at a little distance by several other villagers, they attacked one of the planter's party, the deceased who was a short distance off came to his assistance when the four left the first person attacked, and threw themselves on him and got him down, he, however, managed, though not helped by any one, to escape out of their hands, and ran off, but was, it appears, stopped by the rest of the villagers and again beaten by them, and left on the ground by his own party who made their escape. Some time after, he was found (it would appear accidentally,) by some of the factory-people about three quarter of a *coss* from the place where he was beaten and by them assisted to the factory, this happened on the 19th of May. The unfortunate man was put into a *dooly* and carried to another factory a short distance off, from there

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right to defend their own property.

he was directed to be taken to the police station; it was too late to take him that night, so he was retained at the first factory and sent off the next morning, the 20th, unfortunately for him, the darogah was not at the thannah, he was therefore kept waiting the whole day by the mohurrir, and the next morning again sent off that the darogah might make the inquiry on the spot. He was first taken to one man's house, and then to another and died as he got out of the *dooly* at last, during the whole of this time, it does not appear that any one gave him any assistance, though the prosecutor states that he applied warm sand to the lower part of his stomach where he complained of pain, and where, according to the evidence, there was a red mark as of a violent blow; he seems to have drank a little water and eaten a little *choorah* at the thannah but nothing more; the body was sent in to the civil surgeon, but was too much decomposed to allow of its examination.

I tried the case with the assistance of a jury, they found the first four prisoners guilty of riot, but acquitted them of the culpable homicide; the other prisoners, though they thought that it was evident that they had been in the confusion, they did not consider guilty.

With the first part of the verdict, viz. the finding of the four first named prisoners guilty in part but not of homicide I agree, with the second I do not, but think it clearly proved that they were aiding and abetting; but under all the circumstances of the case, considering that the prisoner No 22, the owner of the field, at first remonstrated with the indigo-people, that there is no proof given that the land was contract land, that Nos 23, 24 and 25, were the men of his own family, and of course shared his vexation at seeing their land sown with indigo; considering them guilty of riot and aggravated assault I have sentenced them to one year's imprisonment with labor, with liberty to commute the labor by a fine.

The prisoners Nos. 26, 27, 28, 29, 30, 31, and 32, who, as well as Nos. 23, 24, and 25, tried to prove an *alibi*, I have no doubt in my own mind, were aiding and abetting, I therefore sentence them each to six months' imprisonment with labor commutable by a fine.

On the whole, this was a very unsatisfactory case, I have not the slightest doubt, but that the greater part of the so-called witnesses for the prosecution never saw what they say they did: indeed, though the evidence was taken down by a man sitting at the same table as myself and under my own personal superintendence, a great part of it is only the copy of what has been said by the others, and in nearly the same words, giving the impression that it had been a made-up tale got off by rote; one man, indeed, witness No. 3, was so bad, that if interrupted in his story he was obliged to begin again, and others were nearly as

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still it is shewn by other evidence that there was an attack on the factory-people who themselves were seven or eight in number, but do not appear to have been able to make any resistance, so that it is clear that the attackers must have been numerous; it is also clear that the deceased was dreadfully beaten, though I don't consider the fact proved that it was the cause of his death, the whole of the defendants are named by those witnesses that I think best entitled to credit, their defence '*alibi*' is of course sworn to, but this unfortunately is in all cases so much a matter of course, that I cannot trust it, and have been guided in my decision by the whole circumstances of the case.

The conduct of the police appears to call for no remark. The attention of the magistrate is called to the fact that his 1st and 3rd counts, do not agree; in the 1st count, the prisoners are charged with 'riot, attended with culpable homicide and wounding,' in the 3rd they are charged with 'aiding and abetting in the above culpable homicide and wounding.' It should have been aiding and abetting in the above named crimes which would have included the riot as well as the culpable homicide.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) It is very evident that the riot was the consequence of the aggressive act of the factory-people, in forcibly sowing the lands of the prisoner Gorai Mundul with indigo. It is also clear that Gorai at first remonstrated with the factory Ameen, and failing to stop their proceedings procured assistance from the village. The only question is, whether the force used by the villagers to resist and drive away the factory-people was so much greater than the occasion required, that it cannot be pleaded in justification of their acts. It would not be fair to trust to the statements of the aggressors which are, no doubt, exaggerated and unfavorable to the prisoners, and the only visible result is, the nature of the injuries received by Suroop Ghose; could his death be fairly attributable to them, the prisoners must be held legally responsible for it. The sessions judge, however, finds that there is no proof to connect the death with the assault on the deceased, and we fully concur with him on this point. The probabilities are just as great that the deceased died from some other cause. It is also in evidence that he was able to leave the spot where the riot took place, and when seen by the thannah mohurrir there was no trace of bodily injury apparent to justify his unauthorized interference in the matter. The death of the deceased then is not sufficient in itself to lead to any inference that the efforts of Gorai Mundul and the others were not confined to driving away the factory-people from the lands which they forcibly attempted to sow, and giving the prisoners credit for having only asserted the natural right of defence of their own property, which the aggressive acts of their assailant had encroached upon, we do not see that they

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did more than was justifiable under the circumstances and consider them entitled to their release.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges*

GOVERNMENT

versus

GOPAUL SHEIKH CHOWKEEDAR (No. 3,) AND AMEER SHEIKH (No. 4.)

Moorshedabad.

1855. November 6. Case of Gopaul Sheikh Chowkeedar and others.

Both prisoners convicted of perjury and an amended sentence of three years' imprisonment passed upon them.

CRIME CHARGED.—No 3, perjury, in having on the 8th March, 1855, intentionally and deliberately deposed under a solemn declaration taken instead of an oath before the pundit, exercising full powers of magistrate, that on the 12th or 13th Magh last, he went to bring fire from Modhoo and Jadoo Sonars' shop, where he saw the plaintiff, Narayn Ghose, give them three-half *bhurees* of gold for the purpose of making ornaments, and in having on the 25th May, 1855, again intentionally and deliberately deposed under a solemn declaration taken instead of an oath before the said pundit, that he did not see the plaintiff give gold, he merely heard it from the plaintiff, such statements being false and contradictory of each other on a point material to the issue of the case No. 4, perjury, in having on the 10th March, 1855, intentionally and deliberately deposed under a solemn declaration taken instead of an oath before the pundit, exercising full powers of magistrate, that on the 15th or 16th Magh last, he saw Narayn, plaintiff, give three-half *bhurees* of gold to Modhoo and Jadoo Sonars, for making a *mala* or necklace and had it melted in his presence, and in having on the 25th May, 1855, again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the said pundit, that he did not see the gold given or melted, such statements being false and contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer - Pundit Muddonmohun Turkolunkar, exercising full powers of magistrate.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 7th August, 1855.

Remarks by the sessions judge—The jury convict the prisoners of perjury. The two statements given by them on oath, on which the charge in the calendar is framed, are contradictory to each other on a point material to the issue.

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Case of GOPAUL SHEIKH CHOWKEEDAR and another.

Although the deposition of the prisoner No. 3, was not attested by the pundit, on the 8th March, on which date it was taken in his presence, it appears on the record and is proved by the evidence that on the 12th March, both the depositions of both the prisoners Nos. 3 and 4, taken respectively, on the 8th and 10th March, were, after they had been duly re-sworn, on the 12th March, 1855, read to them and assented to and subscribed by them and then attested by the pundit.

The form prescribed by the Nizamut Adawlut in their Circular of the 27th January, 1837, No. 220, was not attended to in this case, nor is it, I apprehend, often attended to in the criminal courts, and this inattention might with reference to the decision of the Nizamut Adawlut, August 18th, 1837, in the case of Government *versus* Juldhur Moodee be considered fatal to a legal conviction of perjury, but, that I think the point on which the prisoner was acquitted in that case was his 'having prior to its attestation by the magistrate retracted the false deposition given before the mohurrir.'

The certificate prescribed by the Circular, though not appended to the deposition of the prisoner No. 3, on the 8th March, was required evidently for the express purpose of ensuring the taking of evidence in the *presence* of the presiding officer. There are no grounds in this case for a doubt upon this point. Two witnesses, one of whom wrote the deposition and both of whom attested it, swear that it was taken after the prisoner was duly sworn in the presence of the Pundit, and that on the 12th March he attested it after it was read over to the prisoner and subscribed by him. If there could have been a doubt upon this point, it would have been removed by the admissions made by the prisoner in the sessions court, that the false evidence, they have given on the 8th and 10th March, respectively, had been suborned.

I agree with the jury in considering the perjury proved, and, as this flagrant crime is becoming common in our courts, sentence both prisoners to seven years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. J. H. Patton.) Under the circumstances stated in the sessions judge's report of the trial, we are of opinion that a sentence of three years' imprisonment is sufficient. An amended sentence will issue.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges.*

GOVERNMENT

versus

UNNOOP BAGDEE (No 4,) KISTO KOTAL (No. 5,) AND GOOROOCHURN BAGDEE (No. 6.)

West Burdwan

1855.

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Case of UNNOOP BAGDEE and others

The prisoners were acquitted in this case, as though their statements made under solemn declaration before the deputy magistrate and the sessions judge did not agree with each other, the discrepancy which was apparent was not legally sufficient to bring them under the law of perjury.

CRIME CHARGED.--No 4, perjury in having on the 28th May, 1855, corresponding with the 15th Jeyt, 1262, B. S. in the case of Nuffer Dome Chowkeedar, charged with going forth with a gang for the purpose of committing dacoity in the village of Biddadhurpore, intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the deputy magistrate of Boodbood, who has full powers, to the effect, that he, at about one and half *puhur* in the night of the 7th Jeyt, having heard the noise of the dacoits' arrival at the village, went close to the house of Dwarkanath Roy and saw about ten dacoits flying northward, some of whom had *lattees*, sword and shields in their hands, and that he saw Puran Dome Chowkeedar strike, with a *lattee*, and apprehended the prisoner Nuffer Dome, who had confessed his coming to commit dacoity, and in having on the 19th July, 1855, corresponding with 4th Srabun, 1262, B. S. again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the sessions judge of West Burdwan, to the effect that he, at about one and half *puhur* in the night of the 7th Jeyt, being awakened by the foujdary gomashta of the village, and told by him of the arrival of dacoits at the village, went to the place whence the noise was heard and found the prisoner Nuffer Dome, lying on the ground, being struck with a *lattee* by the chowkeedar Puran Dome, and saw no other dacoits but only heard the trampling of about ten persons in their flight. Such statements being contradictory of each other, on points material to the issue of the case No. 5, perjury in having on the 28th May, 1855, corresponding with the 15th Jeyt, 1262, B. S. in the case of the prisoner Nuffer Dome Chowkeedar, charged with going forth with a gang for the purpose of committing dacoity in the village of Biddadhurpore, intentionally and deliberately deposed under a solemn declaration taken instead of an oath before the deputy magistrate of Boodbood, who has full powers, to the effect, that he, at about one and half *puhur* in the night of the 7th Jeyt, having heard the noise of dacoits' arrival at the village, got up and made a noise with other persons of the village, whereupon he saw about ten or twelve dacoits flying northward, hard by the house of Modhoo Dutt, and the prisoner

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Nuffer Dome, struck with a *lattee* and seized by Púran Dome Chowkeedar, that prisoner when taken to the mal-cutcherry, confessed his having come to commit dacoity, and in having on the 19th July, 1855, corresponding with the 4th Srabun, 1262, B. S. again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the sessions judge of West Burdwan, to the effect, that he, at about one and half *puhur* in the night of the 7th Jeyt, having been awakened and informed by the foujdary gomashta, Ram Ghose, of the arrival of dacoits in the village, and being told to proceed to the place where the dacoits were, he did so, on hearing the noise, and saw the prisoner Nuffer Dome had been apprehended by Puran Dome Chowkeedar, and that eight or ten dacoits were in the act of flying that then the said chowkeedar and others took the prisoner Nuffer Dome, to the mâl cutcherry and deponent returned to his own house. Such statements being contradictory of each other, on points material to the issue of the case. No. 6, perjury, in having on the 28th May, 1855, corresponding with the 15th Jeyt, 1262, B. S. in the case of the prisoner Nuffer Dome Chowkeedar, charged with going forth with a gang for the purpose of committing dacoity in the village of Biddadhurpore, intentionally and deliberately deposed under a solemn declaration taken instead of an oath before the deputy magistrate of Boodbood, who has full powers, to the effect, that he, at about one and half *puhur* in the night of the 7th Jeyt, having heard the noise of the dacoits' arrival at the village, went close to the house of Dwarkanath Roy, and saw about ten dacoits flying northward, that they appeared to have swords and shields in their hands, and that he saw Puran Dome Chowkeedar strike with a *lattee* and apprehend the prisoner Nuffer Dome, that he then went away and did not know whether the prisoner had disclosed any thing, but heard him acknowledge, that he had come to commit dacoity, and in having on the 19th July, 1855, corresponding with 4th Srabun, 1262, B. S. again intentionally and deliberately deposed, under a solemn declaration taken instead of an oath before the sessions judge of West Burdwan, to the effect, that he, at about one and half *puhur* in the night of the 7th Jeyt, having been called by the foujdary gomashta, Ram Ghose, and told by him of the arrival of dacoits at the village, went to the place whence the noise was heard, and saw that Puran Dome Chowkeedar had wounded and knocked down the prisoner on the ground, and also saw, at the distance of two *russees*, ten or twelve dacoits flying northwards, that afterwards, the prisoner Nuffer Dome being taken into the mâl cutcherry by deponent and others named, on question, certain persons, and confessed that he had come to commit dacoity in their company. Such statements being contradictory of each other on points material to the issue of the case.

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CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. Pierce Taylor, sessions judge of West-Burdwan.

Tried before Mr. Pierce Taylor, sessions judge of West-Burdwan, on the 2nd August, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case, drawn up under Act XXXIII. of 1854, were as follows:—

The prisoners were witnesses in the case of Nuffer Dome Chowkeedar, charged with going forth with a gang for the purpose of committing a nocturnal dacoity in the village of Biddadhurpore, tried and released by this court on the 20th ultimo, and were adduced to prove that the said gang of dacoits were actually seen in the said village, with weapons in their hands; that the said Nuffer was flying in their company, when he was knocked down with a *lattee*, and secured by another witness named Puran Dome Chowkeedar, and that he, on the same night, orally confessed having come to the village to commit dacoity.

It will be seen on reference to the particulars of the charge in the calendar, that all the prisoners made direct statements, in support of the above allegations of the prosecution, before the deputy magistrate as ostensible eye and ear-witnesses, and that they made as directly contrary statements, upon at least two of the same points before this court, which consequently committed them to take their trial for perjury on the 30th July last, corresponding with the 15th Srabun, 1262, B. S.

Their depositions, before the deputy magistrate, have been fully proven by the peadah, who administered the solemn declaration to them, and by the mohurrir who wrote them. Their statements before this court have been authenticated by the chuprasee who administered the solemn declaration to them, and by the acting naib nazir of the foujdary court, who, as well as the said chuprasee, heard them deliver them.

The prisoners Nos. 4 and 5 pleaded *not guilty*, and No. 6, guilty.

They have named no witnesses, make no defence, and throw themselves upon the mercy of the court.

The *futwa* of the law officer convicts Nos. 4 and 5, of perjury, on violent presumption, and No. 6, on full legal proof, and declares them liable to *tazeer*. The court accepts the *futwa*, but considers the crime of deliberate perjury fully and legally established against all the prisoners, whom it therefore convicts and sentences to three years' imprisonment each, with labor in irons, in the zillah jail.

The warrant of imprisonment will be made out and forwarded to the joint-magistrate without delay.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow,

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Bart., and Mr. J. H. Patton.) After perusal of the record, the Court are of opinion that though there is a slight inconsistency in the statements of the prisoners when examined on oath, first before the deputy magistrate, and then before the sessions judge, there is no such discrepancy in their depositions as would justify their conviction of intentional and deliberate perjury. They all swear consistently to having seen the prisoner, Nuffer Dome, apprehended by Puran Bagdee, though the prisoners so far modified their statements as in one court to have sworn they saw the blow inflicted by Puran Bagdee, while in the other they said they saw Nuffer Dome lying on the ground after he was knocked down and apprehended.

The Court observe, further, that the prisoners when examined in the dacoity case, as witnesses, swore first that they saw the other dacoits running away and afterwards that they heard the trampling of about ten persons on their flight.

Such discrepancy hardly comes within the scope of the law of perjury. As the Court acquit the prisoners, they deem it unnecessary to remark upon the irregularity in the case noted in the judge's letter of the 8th ultimo.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges.*

GOVERNMENT

versus

MOOKTARAM MUDDUCK.

West-Burdwan.

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The prisoner was acquitted because in the absence of medical testimony, there was no clear proof that the death of the deceased was directly connected with the blow inflicted by the prisoner.

CRIME CHARGED.—1st count, culpable homicide, having on or about the 6th April, 1855, corresponding with the 25th Cheyt, 1261, B. S., struck the deceased, Tarachand Dey, upon the head with a club, from the effects of which assault, the deceased was attacked with lock-jaw and died about sixteen days afterwards, in the month of Bysack last; 2nd count, having assaulted the deceased, Tarachand Dey, with a club.

CRIME ESTABLISHED.—Culpable homicide, having on or about the 6th April, 1855, corresponding with 25th Cheyt, 1261, B. S., struck the deceased, Tarachand Dey upon the head with a club, from the effects of which assault the deceased was attacked with lock-jaw and died about sixteen days afterwards in the month of Bysack last.

Committing Officer.—Mr. J. S. Spankie, joint-magistrate of Bancoorah.

Tried before Mr. Pierce Taylor, sessions judge of West-Burdwan, on the 20th August, 1855.

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Remarks by the sessions judge.—The terms of the court's decision in this case, drawn up under Act XXXIII. of 1854, were as follows.

The joint-magistrate's abstract characterized this case as one of culpable homicide, which had been concealed by the *talookdars* (of Sreerampore.) No relation of the deceased was made prosecutor, because they one and all declined to prosecute. There were only two eye-witnesses named in the calendar, viz., Sreekanth and Narain Deys, Nos. 1 and 2, who are the brothers of the deceased. The story told by the first of these persons, before the sessions court, is, that on the 24th or 25th of Cheyt, a quarrel arose between the prisoner and Tarachand, about some chaff, which a Baouin had brought for sale; that, on hearing the noise thereof, deponent looked from his shop, which was about two *russees* from the spot where the disputants were, and saw the prisoner enter his house, and bringing therefrom a rough billet of wood, about two *haths* long and a little thicker than could be grasped by a man's forefinger and thumb, strike the deceased therewith on the temple; that on receiving the blow, the deceased sat down and began to cry; that a considerable quantity of blood flowed from a wound between his temple and scalp; that, on seeing blood, the prisoner took away the billet of wood and re-entered his house; that after this, deponent with Kaleechurn Sircar, gomashta, Hullodhur Koondoo, *talookdar*, and a number of other neighbours went up to Tarachand, who said he would go home; that deponent took his arm and led him to his house, close by, where the *scnkh tap* or dry fomentation was administered to him; that three or four days afterwards, the bruise having subsided, without the wound healing, deceased said he would go to Bancoorah for medical advice; that he went backwards and forwards, between Rajgaon (Sreerampore) and Bancoorah, for two days for plasters to put on the wound, but on the 3rd day, told deponent that, as the native doctor, witness No. 3, required his attendance twice per diem, he would go to the house of his father-in-law, Bullye Dutto, at Bancoorah, and return thence when he had recovered; that, two or three days after that, a certain Kamar, whose name deponent did not recollect, came and informed the family that the deceased had stiffness of the jaw and could not eat, and had better be sent for; that deponent's father, Doorgachurn Dey, (witness No. 5,) and brother Narain Dey (witness No. 2,) went to fetch him next day; that when he arrived in a *doolee*, he had windy cholic (*batobyadee*) and twitching of the muscles, which drew him backwards; that the *kuberajes*, or native physicians, Buloram (witness No. 9,) and others, did all they could for him, without success, and that four or five days afterwards he died. The mofussil deposition of this witness was the same, as to the facts, but affirmed that the deceased died of *dhenooktungkar*, or

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tetanus, and not of the blow received from the prisoner. His statements before the joint-magistrate were not discrepant from the above in any important particulars When questioned by that officer he stated, that Kallee Sircar gomashta, Hullodhur Koondoo and others, had made up the quarrel between the deceased and the prisoner immediately after it occurred. When cross-examined in the sessions court, he described the symptoms of the disease of which Tarachand died in such a way as to shew that it was *tetanus*, evidently resulting from the wound in the head. He also says that the billet, made use of by the prisoner was a piece split off from the branch of a tree which had remnants of small branches sticking out of it, one of which might easily have inflicted a wound like that received by the deceased. The mofussil and foujdary depositions of Narain Dey, witness No. 2, were similar to those of his brother, but he has deliberately perjured himself before the sessions court, by denying that he saw the prisoner strike the deceased. and his commitment has therefore been ordered Although none of the other eye-witnesses, named by witness No. 1, would, when summoned and examined by the joint-magistrate, acknowledge that they had seen the prisoner assault Tarachand, the depositions of the persons named in the margin,* taken in conjunction with the fact that *tetanus* could not have shewn itself, if there had been no blow on the head of the deceased, and no considerable hæmorrhage from it, have sufficiently proven that the evidence, given by the first witness, Sreekanth Dey, is correct and true.

The defence of the prisoner is *alibi*, and he affirms that the case has been got up against him by the father of the deceased, because he owes him money for sweetmeats; but his witnesses do not, in any way, substantiate his allegations.

* *Named in the Calendar.*

Madhubchunder Doss, native doctor, No. 3

Rammdhee Doss, ditto, No. 4

Doorgachurn Dey, father of the deceased, No. 5.

Sreechurn Dutt, No. 6

Bulloram Dutt, No. 7.

Sheebchurn Koondoo, No. 8.

Bulloram Kubeeraj, No 9

Sreekanth Singh, No. 10.

Sent for and examined by the sessions court.

Nuffer Dutt.

Ramakanth Chatterjea.

Devee Roy.

Musst. Shunkuree, the mother of the deceased and Mofeezooddeen Ahmud, phandeedar of Sreerampore.

The *futwa* of the law officer convicts the prisoner, on violent presumption, and declares him liable to *tazeer*.

The court conceiving this finding fully borne out by the evidence and circumstances of the case, accepts it, and convicting the prisoner on the first count of the indictment, on violent presumption, sentences him to four years' imprisonment with labor in irons, in the zillah jail.

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Case of MOOKTARAM MUDDUCK.

The court further orders that the usual warrant of imprisonment be made out and transmitted to the joint-magistrate, and that the record be returned to his office, as soon as the period of appeal shall have expired.

It will also be brought to the joint-magistrate's notice that the Koondoo *talookdars*, not only evidently concealed this case, but that they must also have instructed the witness, Sreekanth Singh, No. 10, to accuse the mohurrir phandeedar of Sreerampore, Mofeezooddeen Ahmed of allowing the body of the deceased to be burned, almost in his presence, notwithstanding previous information of the culpable homicide by him received. The falsehood of the statements of the said Sreekanth Singh have been distinctly proven, by the depositions of witness No. 1, Sreekanth Dey and Nuffer Dutt summoned by this court.

Remarks by the Nizamut Adawlut —(Present: Sir R. Barlow, Bart, and Mr. J. H Patton.) It is very possible that the deceased may have met his death as stated, and that an endeavour has been made to screen the defendant. But no inquest was held on the corpse, nor was any medical opinion obtained as to the cause of death, in short there is no clear proof which connects the death of the deceased with the blow said to have been inflicted by the prisoner In the absence of such proof, the prisoner is entitled to his release.

PRESENT:

B. J COLVIN, ESQ, *Judge*

Patna.

1855

November 8.

Case of BYDIA PUTT.

Appeal jected

GOVERNMENT AND SHOHUNLALL

versus

BYDIA PUTT.

CRIME CHARGED.—Burglary with theft of property valued at Rs. 125.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer —Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna

Remarks by the officiating sessions judge. —This is a very clear case, prosecutor and his brother, Jooreelall (who is absent on a pilgrimage) live on the same premises. On the morning of the 13th July, prosecutor went home from his shop, and observed that the locks affixed to his brother's door had been tampered with and broken, he entered the rooms and found a hole in an inner wall, property strewn about and boxes forced open. He then looked about for the thieves, whom he suspected, from house-breaking implements being found on the floor where the

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Case of BYDIA PUTT.

hole (*samil*) had been made, to be still lurking about. From what the servants and women living in his own rooms said, he thought it probable they were concealed in a passage leading out into the town, and the inner-door of which was fastened. With the assistance of some friends and servants who had collected about him, he procured the services of a carpenter, and in their presence had the door broken open, when the passage was discovered to be empty. On lifting up, however, some planks over a drain the prisoner was found crouching underneath them. The prisoner was at once handed over to the police jemadar, Gobindlall, (witness No. 1,) who was in attendance outside having heard of what was going on from the people about. The police thannah is close by. Witness No. 2, Gunesh, whose shop faces the premises, saw the prisoner brought out of the house, and witness No. 3, Khoablall, was with the prosecutor in his search for the thieves and assisted in prisoner's capture. His evidence is most distinct and trustworthy. The prisoner has throughout admitted his having been introduced into the house by a set of burglars, whom he names, and who he says, left him the night previous to return again the following night. They had already carried off Rs. 125 worth of jewellery belonging to prosecutor, whose things, it is in evidence, were kept, many of them, with the absent Jooreelall's. The latter may have lost property which has not been missed.

In concurrence with the law officer I convict the prisoner of the crime charged (his two witnesses having stated they do not even know him by sight) and sentence him to ten years' imprisonment with labor and irons in banishment. The prisoner, who is a young man, has been before accused of theft; and is evidently a professional theft and burglar

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The Court see no grounds for interference and reject the appeal.

PRESENT :

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges.*

GOVERNMENT AND NARAINE SINGH

versus

MUSSAMUT RADHEE ALIAS ROTOOR MATAH.

Sylhet.

1855.

November 8.

Case of Musst. Radhee. *alias* Rotoor Matah.

The prisoner who had been committed on her own plea of guilty; was convicted by the sessions judge. In appeal, she admitted giving drugs to a third party to administer; conviction and sentence upheld.

CRIME CHARGED.—Culpable homicide of Musst. Goree *alias* Tarar Matah by administering medicine to procure abortion.

CRIME ESTABLISHED.—Culpable homicide.

Committing Officer - Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of Sylhet, on the 13th August, 1855.

Remarks by the sessions judge.—The prisoner has been convicted upon her own confessions voluntarily made both before the magistrate and darogah, that she prepared and administered some medicine to the deceased with the view of procuring abortion, and for which she received 4 rupees, and it is in evidence that the deceased died shortly after having had an abortion.

Before this court, the prisoner pleaded *not guilty*, and in her defence said the 4 rupees had been left in her house.

Sentence passed by the lower court.—Three years' imprisonment without irons, and a fine of 20 rupees, in default of payment to labor suited to her sex.

Remarks by the Nizamut Adawlut.—(Present : Sir R. Barlow, Bart., and Mr. J. H. Patton.) The prisoner is convicted on her plea of guilty before the magistrate, and we see no reason to interfere, particularly as in her appeal to this Court, she admits having given drugs to a party to administer them.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges.*

GOVERNMENT

versus

GUNGARAM POTDAR.

Midnapore.

1855.

November 8.

Case of GUNGARAM POTDAR.

The prisoner stated on solemn affirmation that he had never before given evidence in any court. The Nizamut Adawlut finding it proved by the records of the case (and the prisoner had himself on proof being adduced, admitted the fact in the mofussil) that he had been a witness on several occasions, upheld the conviction and sentence of the sessions judge.

CRIME CHARGED.—Perjury, in having wilfully and fraudulently deposed before the judge on solemn affirmation administered instead of an oath, on the 4th August, 1855, that he had not, previous to the date stated, ever given evidence in any court on solemn affirmation, knowing at the same time that he had given evidence on solemn affirmation on 23rd August, 1849 and 18th January, 1853, respectively, his object in thus deliberately stating a falsehood being to mislead the court and gain credit for his testimony, which seriously affected the issue of the case in which he was cited.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. W. Luke, sessions judge of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 8th August, 1855.

Remarks by the sessions judge.—The prisoner is charged with wilful and corrupt perjury. It appears from the evidence that he was cited as a witness in the judge's court by one Punchanund Roy, and gave his evidence on 4th August, 1855, before the judge on solemn affirmation instead of an oath vide (exhibit C and deposition of witness No. 6, of the calendar) in which he swore that he had never before given evidence as a witness in a court of justice. It further appears that on the 23rd August, 1849 and on 18th January, 1853, he appeared in court and gave evidence as a witness on solemn affirmation (vide exhibit A and B and depositions of witnesses Nos 1, 3, 4 and 5) The prisoner in this court admits that he did appear and give evidence in all the cases aforesaid: that he was alarmed on the 4th August, 1855, which led him deny his previous deposition. The assessors declare the prisoner guilty on his own confession and fully corroborated by the evidence for the prosecution. The object of the prisoner in denying positively that he had ever given evidence as a witness previous to the 4th August, 1855, was of gaining readier credit with the court for the substantial part of his evidence, which seriously affected the whole issue of the case. The conduct of the prisoner is the more culpable, as it is in evidence that the cases in which he was cited on the 18th January, 1853 and 4th August, 1855, are identical. In the first instance, as a witness in behalf of the decreedar

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(witness No. 4, of the calendar) and in the second in behalf o an opponent to the execution of the decree of the said decreedar The system of false-swearing prevails in our courts to a most vicious extent, and it seems to have gathered strength by the impunity with which it is pursued. It is very necessary when gross acts, like the present, are brought home to the parties that a severe example should, under the circumstances, be made I accordingly, in concurrence with the assessors' finding, sentence the said prisoner to five years' imprisonment with labor.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow Bart., and Mr J H Patton.) The prisoner with the view to enhance the value of his testimony in this case, denied having ever before given evidence in a court of justice. By the documents on the record it is shewn that he was examined as a witness in 1849, and in 1853, he was examined in the case now before the court, and again also when the proceedings were brought forward on the 4th August, 1855. In 1853, he gave evidence in favor of the decree-holder, and in 1855, on behalf of his opponent, facts which he concealed in order to obtain greater credence for his statement The appeal is rejected and the conviction and sentence upheld.

Patna 1855. November 8. Case of GURBOO.

PRESENT.

SIR R BARLOW, BART. AND J. H. PATTON, ESQ., *Judges*

GOVERNMENT

versus

GURBOO.

The sentence of the sessions judge upon the prisoner who had confessed to wilful perjury, was upheld. He was sentenced to only one year's imprisonment;—his ignorance, the probability of his acting under the instigation of others, and his voluntary confession being considered ground for mitigation of punishment

CRIME CHARGED.—Perjury.

Committing Officer.—Mr W. Ainslie, magistrate of the city of Patna.

Tried before Mr. G D. Wilkins, officiating sessions judge of Patna, on 12th October, 1855.

Remarks by the officiating sessions judge. On the 6th August last, the prisoner confessed before me that he had wilfully perjured himself on the 4th July, 1855, in having made on oath in a sessions trial for murder before me (in which he was a witness for the prosecution) two totally contradictory statements in a matter material to the issue of the case, viz. first ' that he saw Barhoo and Rumjoo, prisoners, beating and kicking Mutter in their own zenana enclosure; that he went into the zenana apartments and saw it, the door of those apartments being open; and that he therein saw the said Mutter with both his hands tied together behind his back and a rope tied to his

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Case of GURBOO.

toes and fastened to his head;" and secondly, that he did not see his (Mutter's) body tied, that the door of the prisoner's house was shut, that he heard the prisoners had killed Mutter; and that he did not see them beating him.

The prisoner qualifies his confession by saying that when he made these statements on oath before me he was somewhat confused, but he was nothing of the kind, and the witnesses prove he made his contradictory statements with deliberation and full knowledge of what he was doing. There were no witnesses summoned by prisoner for the defence.

I propose one year's imprisonment with labor only in this case, on the ground that the prisoner is a very low caste ignorant man, acting probably under the advice and instigation of others, that prisoner's confession is a ground for mitigation of punishment, and that the term recommended will be a sufficient example. The law officer concurred in the conviction.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. J. H. Patton.) The prisoner makes no defence and admits the charge before the sessions court. The conviction and sentence are confirmed.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ., *Judges.*

GOVERNMENT AND KISHORE HALDAR

versus

PHEEDOORAM BARYE (No. 24,) AND RAMCHUNDER SHEOLEE (No. 28.)

Backergunge.

1855.

November 8.

Case of PHEEDOORAM and another.

The guilt of the prisoners was clearly established, by the recognition of the stolen child in their possession and by their own confessions before the thanna jemadar.

Appeal rejected.

CRIME CHARGED.—Burglariously stealing a child, named Koodee Chokree, daughter of the prosecutor, Kishore Haldar.

CRIME ESTABLISHED.—Same as crime charged.

Committing Officer.—Mr. H. A. R. Alexander, officiating magistrate of Backergunge.

Tried before Mr. F. B. Kemp, sessions judge of Backergunge, on the 14th June, 1855.

Remarks by the sessions judge.—The prosecutor is a married man, with two children, one a boy and the other an infant daughter, the latter now about five months old. Towards the end of last Choitre, the plaintiff was absent from home. His wife was left alone with her two children. On the 5th April, 1855, towards the morning the two prisoners cut the string which fastened the door of the prosecutor's house entered it and carried off the infant daughter of the prosecutor from her mother's side, the mother's sleep was not broken. The prisoners

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Case of
PHEEDOORAM
and another.

took the infant on board a *dinghee*, they were met in the Seetakalleekhal by the witness No. 1, who is a chowkeedar and was on his rounds, and the witness No. 2, who was in company with the chowkeedar The witness No. 1, stopped the prisoners and asked them where they were going at that time of night with so young an infant. The prisoners first stated that they had left their homestead and were going to settle in another village. The chowkeedar then asked them where the mother of the child was, they began to equivocate, first saying that she was following in another boat close behind, then that the mother was dead and that they were taking the infant to the house of the uncle, the suspicions of the chowkeedar were now fully aroused, and he very properly detained the prisoners. After some search, information was given in the village of the prosecutor. Some of the neighbours came and recognized the infant and the result was, that she was restored to her mother. Before the jemadar of the thannah the prisoners confessed to the theft of the child, they stated that they had been offered from 30 to 35 Rs. by certain prostitutes for a female child, which induced them to steal the infant. I may remark that the infant is a remarkaly fine and pretty child. The prisoner No. 25, is distantly related to the prosecutor and lives on the same homestead, though not in the same house. Before the magistrate and in this court the prisoners retract their mofussil confessions, those confessions are fully proved by the witnesses named in the margin* and in their defence the prisoners do not state that they were in any way ill-treated by the police. The defence in this court is, that it is improbable that a child of so tender an age could have lived so long without maternal nourishment, and an *alibi*. It is in evidence that cow's milk was administered to the child, which probably saved its life; the witnesses to the defence can say nothing in favor of the prisoners. The *futwa* convicts and declares the prisoners to be liable to *akoobut*. I concur, and considering the theft to have been a most cruel one, and one, but for the fortunate circumstance of the chowkeedar meeting the prisoners, likely to have made the parents miserable for life and to have entailed upon the infant the wretched life of a prostitute, I sentence the prisoners as stated below.

* No. 4, Soornarain Doss.
,, 5, Moheemachunder Doss.

This case is somewhat similar to a case reported in the Decisions of the Sudder Nizamut for 1853, vol. 3, pages 501-503. The chowkeedar behaved very well in this case. I understand he has been rewarded by the officiating magistrate.

Sentence passed by the lower court.—Each to be imprisoned for seven (7) years with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. J. H. Patton.) There is no doubt of the

prisoner's guilt. Their apprehension with the child, their mofussil confession, the recognition of the child by the neighbours and its restoration to its parents are facts clearly established by the evidence on the record. We see no reason to interfere with the conviction and sentence, and reject the appeal.

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Case of PHEEDOORAM and another.

PRESENT:

SIR R. BARLOW, BART. *Judge.*

GOVERNMENT AND GODY BHUDDUR

versus

RAMDYAL KUR (No 7) AND MUDHOOSOODUN BHUDDUR (No 8,) APPELLANTS.

West Burdwan.

1855.

November 12.

Case of RAMDYAL KUR and others.

The prisoners failed to produce any trustworthy evidence in their defence; they confessed in the mofussil; a large portion of the stolen property was found in their possession: on these grounds the Court saw no reason to interfere with the conviction or sentence of the sessions judge.

CRIME CHARGED. -Prisoners Nos. 7, and 8, 1st count, committing on the night of 1st June, 1855, or 19th Jeyt 1262, a theft in the house of the prosecutor Gody Bhuddur by stealing therefrom property to the value of 312 Rs; 2nd count, having knowingly in their possession stolen property obtained by the above theft.

CRIME ESTABLISHED. -Committing a theft in the house of the prosecutor Gody Bhuddur by stealing therefrom property to the value of 312 Rs, and on the 2nd count, having knowingly in their possession stolen property obtained by the above theft.

Committing Officer. --Moulvee Gholam Ushruff, deputy magistrate of Boodbood.

Tried before Mr P Taylor, sessions judge of West Burdwan, on the 9th August, 1855.

Remarks by the sessions judge. – The terms of the court's decision in this case, drawn up under Act XXXIII. of 1854, were as follows:

The property consisted of 250 Co's Rs, 50 Rs. in small coins and two *hunslees*, or silver neck-collars, valued at Rs. 12. The evidence of the prosecutor, and his son, Ramdhun (witness No. 11,) shews, that the *hunslees*, of which one belonged to prosecutor and the other had been pledged to him by Gaynarain Guraeen, (witness No. 13,) were in a chest in their shop, on the evening before the theft took place; that the cash was locked up in the same chest, by Ramdhun, late in the evening, after he had counted it and informed his father of the amount; that the prisoner Ramdyal, No. 7, who, being employed by prosecutor in carrying merchandize, usually slept in the shop, stood by the chest holding a lamp, while the monies were being placed in it; that prosecutor and his son thereafter, hasped the door on the

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outside and, as well as the aforesaid prisoner, went off in different directions; that prosecutor proceeded to the village of Bonkattee, half a *pao* distant, about some business, Ramdhun to the *poojah* of the idol Dhurmoraj, and the prisoner Ramdyal, they knew not where; that prosecutor returned home at about half past 7 o'clock, and his son later, after which both partook of food and went to sleep; that when they arose next morning, the son, Ramdhun, found the box unlocked and the cash and *hunslees* gone; that on the arrival of neighbours, among whom were Juggernath Modhok and Kartick Podar, witnesses Nos. 5, and 6, enquiry was made, which tended to criminate both the prisoners; that it was then observed that Ramdyal No. 7, had not slept in prosecutor's house as usual, while his presence during the locking away of the monies in the chest was recollected; that prosecutor's mother Motee (not sent as a witness to the sessions court), said she had heard the door of the shop opened, a short time after the prosecutor and his son left it, and on asking who it was, was answered by the prisoner Ramdyal, No. 7, who explained that he had returned to look for tobacco; that Bipun Nundee, witness No 3, said he had seen the prisoner Mudhoosoodun, No 8, who was a suspicious character, sleeping in the *mundeer* or temple of Dhurmoraj, close to prosecutor's house, but about a bigah distant from his own, between 6 and 7 o'clock the previous evening; that one Madhub Bunick (not sent as a witness to this court), who had been making grass ropes in the *verandah* of the Dhurmo *mundeer*, affirmed he had seen the prisoner Ramdyal No 7, join No. 8, at about 7 o'clock, when the former did all he could to send him away, until he went of his own accord, and on returning, found both prisoners gone; that Kangal Moochee and Neetye Moochee, witnesses Nos 15 and 16 stated that they had seen both prisoners leave the prosecutor's shop, at a little after 7, when they were coming to speak to him about some seed rice; that in consideration of all these suspicious circumstances, the darogah of the Senpaharee *thannah*, which was only a few *russees* distant from the spot, was informed of what had occurred, and that he thereupon apprehended prisoner No. 7, who immediately confessed orally, and gave up Rs 112-6 small coins included, out of the mud at the edge of a tank called Chotobandh; that the mohurrir subsequently seized the prisoner Mudhoosoodun, at his house, on search of which Rs 99-8, were found in a newly sewn up pillow, 50 Rs on a shelf, and 30 Rs worth of small coins in a *paukhoongee* or small basket; that both prisoners thereafter publicly and voluntarily confessed, and that as they pretended one Mudhoosoodun Mookerjea, had received the two *hunslees* and residual cash from them, his house was also searched, but without result.

All the witnesses above named (with the exception of Musst.

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Motee and Madhub Bunick) have fully corroborated the statements of the prosecutor and his son, and the apprehension of the prisoners, the *sooruthal*, the finding of the property recovered, the identification thereof (i. e. of the bag in which the rupees were originally tied up, found with those given up by prisoner No. 7,) the mofussil confessions of both prisoners, and the making and pledging of the *hunslees*, have all been satisfactorily proven by the witnesses named under the proper heads in the calendar. Besides this, Musst. Pryo Bewah, sister of the prisoner Ramdyal, witness No. 16, has deposed, that prisoner No. 8, called him away, between 6 and 7 o'clock on the night of the theft, and that he, not long afterwards, returned with what appeared to be money, wrapped up in the corner of his *chuddur*.

The mofussil confessions of both prisoners tallied with the indications of the evidence, and were nearly alike, though of course each prisoner tried to make out that his companion was most guilty. It appeared from their statements, that the lock of the chest was picked with a large packing needle, which used to be stuck in the beam over it. Both prisoners repudiated their confessions before the deputy magistrate; No. 7, acknowledged that he had taken up Rs. 112-6, out of the mud of the Chotabandh tank, but affirmed that they were his own property and that he had so taken them up, because the darogah and prosecutor had promised to let him go if he did so. He added that he had buried the rupees as above, because he thought his house would be searched; that he had been beaten by the police to make him confess; that he had not done so, but merely signed a paper; that he had no witnesses who could prove the money to be his own property; that he had been at a *nautch* on the night of the theft, &c. His defence before the sessions court is in many respects, widely different, inasmuch as he accuses the darogah and prosecutor of having got up the case against him, in consequence of enmity arising out of a criminal intercourse of the latter with his sister Pryo (witness No. 16). He at the same time again acknowledges that he took up the monies, found in the Chotobandh tank, with his own hand. None of the witnesses named by him substantiate his allegations.

The defence of the prisoner No. 8, before the deputy magistrate was, that he was innocent, that he had been beaten by the darogah till he signed a paper; that the money found in his house, was his own; that he had no witnesses to prove the fact; and that the case had been got up against him by the darogah, because he had once complained of him and got him fined. His defence before this court is nearly of the same nature, but more particular, and he adds that the money found in the pillow had been put there for fear of thieves that the

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sewing thereof was not fresh; and that the rest of the cash had been put out for use in daily business. None of the witnesses adduced by this prisoner support his allegations. It also appears from the evidence of the witnessss Bissun Nundee, and Kartick Podar, Nos. 3 and 6, for the prosecution, and others that the prisoners gained their livelihood as carriers and were not likely to have had cash by them, to the amount of that found. The bag, dug up at the Chotobandh tank, is recognised by prosecutor and his son, witness No. 11, as part of an old *dhotee*, which had been worn by a child of the latter's sister. It does not appear that either of the prisoners was ever in any scrape before, but their conduct before this court has been, that of bad and deceitful characters.

The *futwa* of the law officer convicts both the prisoners on both counts of the indictment, "*bu zun i ghalib*," or on violent presumption, and declares them liable to *tazeer*. The Court accepts this finding, but considers the proof full and legal, and therefore convicts the prisoners, on both counts, and sentences to five years' imprisonment, in the zillah jail, with labor in irons: three years each with labor in irons, for the offence, and two years each, with labor in irons in lieu of corporal punishment.

The usual warrant of imprisonment will be issued immediately and the joint-magistrate will be directed, in a separate proceeding, to give up all the recovered monies, with the bag containing them, to the prosecutor.

The deputy magistrate will be informed that he ought to have sent Musst Moteo and Madhub Bunick, as principal witnesses, and that as the prisoner No. 7's witnesses Nos. 18 and 20, viz, Ramdyal and Ramnath Muddocks, were mere boys, he ought not to have examined them without asking them whether they were aware of the nature of a solemn declaration; when this was done by the court, it was found that they were totally ignorant on that point, and their depositions could not therefore be taken.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart.) The prisoners cited several witnesses in their defence, none of them, however, said any thing in their favor. Nearly the whole amount which was stolen was recovered. The prisoners confessed in the mofussil and plead *not guilty* generally. I see no reason to interfere.

PRESENT :

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND MUSST. LUCHMUN

versus

SHEIKH BOLAKIE.

Bhaugulpore.

1855.

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Case of SHEIKH BOLAKIE.

The evidence for the prosecution being contradictory the prisoner was acquitted

CRIME CHARGED.--Wilful murder of Dahoo, son of the prosecutrix.

Committing Officer.—Moulvee Zynooddeen Hossein, deputy magistrate of Muddehpoora, Bhaugulpore.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 1st August, 1855.

Remarks by the sessions judge.—The murder was committed in thannah Boodawan in the jurisdiction of the deputy magistrate of Muddehpoorah.

The murdered man was a gomastah of a hide godown, and the prisoner a servant of his; the murder took place at night when the two were alone in the house, and as the prisoner did not confess, it is impossible to know what actually occurred previous to the deadly wound being inflicted. The deceased resided at Monghyr and has left a widow and two children, but he carried on illicit intercourse with a woman of the *Nut* caste (and also it is asserted with the prisoner's wife) with whom the prisoner had an intrigue, and from what the deceased said before his death, she is the cause of the crime

The murder was committed on the 7th of June, and Pershad Chowkeedar gave intimation to the jemadar of the Bucktearpore phandee throwing strong suspicion on Munear Nut. The darogah of the thannah proceeded to the spot on the 10th, and on the statement of the present prisoner, Bolakie, considered Luchmun and Kashee (witnesses Nos. 5 and 6,) the guilty parties. Luchmun denied all knowledge of the deed, and Kashee implicated Luchmun, meanwhile the deputy magistrate sent another darogah (of thannah Soopol) and his Nazir to assist, and they reported that they considered Bolakie, the murderer and therefore sent him in.

It appears from the evidence before the court that the witnesses (Nos. 5, 6 and 7,) were aroused at night by screams from the home where deceased was sleeping, and going there found him on a mat by the bedside, severely wounded in the stomach and with his entrails protruding, and that he said the prisoner had killed him on account of a woman, and that after drinking a little water he died. The prisoner, all this time, was sitting beside him. Chubbee, (No. 8,) a servant in the same establishment but residing at a different place, states that the following

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day the prisoner and witness No. 6, came and told him deceased was killed, and on his asking how, prisoner said he had committed a fault. The native doctor's statement as to the wound being the cause of death is proved by witnesses Nos. 3 and 4. The knife produced in court is one of those used for clearing the hides and could inflict a fearful wound; it was produced by the prisoner from the *addah* of Boondee Munder in the presence of witnesses Nos 9, 10 and 11.

The prisoner pleads *not guilty* throughout, before the darogah he says Luchmun killed deceased and he saw him.

Before the magistrate he states the same, but he did not actually see him.

Before the sessions he denies, and declares he was ill used by the darogah (who was bribed), and he told not to mention Buttoo and Kummur Ullee; he calls several witnesses, Nos. 1 and 12 know nothing about the case, Nos. 14, 15, 16 and 17 state that he is a respectable member of society.

The trial occupied the 31st of July, and the 1st of August, and the jury* by whom I was assisted return a verdict of guilty, in which I agree.

* Mudhoo Surma. Khooblall. Kishen Gopal Singh.

Of course where the two principal witnesses have in the first instance been arrested on the charge it is not likely their first replies would tally with the evidence given on oath before the deputy magistrate and myself.

It is probably on his return from reporting to Chubbee, the prisoner first conceived the idea of turning the tables, and instructed Kashee a mere boy what he wished him to say, and that Luchmun was taken aback when he found himself accused, however it may be, the evidence of the witnesses Nos 5 and 6, is much weakened by all these circumstances and must be received with great caution, witness No. 7 gives his evidence clearly and distinctly, he heard the deceased charge the prisoner with the act, and the cause alleged, and there is no doubt of the intrigue. The prisoner urges nothing in his defence, in palliation of the crime, and considering him guilty of a deliberate murder I have no option but to recommend capital punishment.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The principal witnesses against the prisoner are those, numbered 5, 6 and 7, in the calendar. Nos. 5 and 6, were charged by the prisoner in the first instance, they were however released by the police in the mofussil, and subsequently made witnesses against the prisoner, who in his turn was made the defendant and committed to the sessions. They swore to hearing from the deceased in *articulo mortis* that the prisoner was the person who had stabbed him in the abdomen, from which the bowels protruded; that the prisoner acknowledged having done the deed; that enmity ex-

1855. November 13. Case of SHEIKH BOLAKIE.

isted between the prisoner and the deceased, on account of a woman, and in short gave most full and convincing evidence, if it could be relied on, of the prisoner's guilt. On comparing what they said from first to last before the police, the magistrate and the sessions court, their statements are full of contradictions and inconsistent with each other. The witness No. 7, is equally conflicting in his several depositions as to what occurred on his arriving at the spot, upon hearing the cries of the deceased, excepting that he has all along said that the deceased named the prisoner as his assailant.

Witnesses, Nos. 8, 9 and 10, speak to having heard from Mohun, No. 7, that the prisoner had killed the deceased.

The *futwa* of our law-officer acquits the prisoner, declaring that there is no such strong circumstantial evidence as would justify a finding of a verdict of guilty against him, even on presumption. In this, we concur, the prisoner will be immediately released.

The sessions judge should have given full details of the contradictions apparent on the record, but not set forth in the letter of reference.

PRESENT

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT

versus

MUSST. SOOKHOO ALIAS MUTABOO

Patna. 1855. November 13. Case of MUSST. SOOKHOO *alias* MUTABOO.

The prisoner was released from demand of security for good behaviour, there being no proof of her notoriously bad or dangerous character.

CRIME CHARGED.—Administering poisonous or intoxicating drugs to Musst. Booneah and Huree, her nephew, with intent to steal, and stealing, whilst in a state of insensibility, from the person of Musst. Booneah and her infant in arms, ornaments valued at Rs. 55.

Committing Officer.—Capt. H. M. Nation, assistant general superintendent for the suppression of thuggee and joint-magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 25th July, 1855.

Remarks by the officiating sessions judge.—Musst. Booneah, witness No. 1, is the widow of a goldsmith, lately deceased, and witness No. 2, a lad of thirteen or fourteen years of age, her nephew, who lives with her. One night in last Assar, the prisoner, it is alleged, came to her house, begged a night's shelter, got it reluctantly afforded her, (the plea for the request being that the man, she (prisoner) lived with, had been ill-using her) and then induced Booneah and her nephew to eat some food mixed with intoxicating drugs, from the effects of which they

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Case of Musst. Sookboo *alias* Muraboo.

lost their senses, in which state the prisoner robbed the woman of all her jewellery.

The prisoner is said to have confessed at the thannah; but her story now is, the thannah jemadar, who conducted the case, has a spite against her, and has brought against her a charge which he ought to have brought against one Girdharee, who paid the jemadar 30 Rs. to get off. Before the joint-magistrate also she denied the charge.

I have very little doubt but that the story told by Booneah is in all essentials quite true; but in consequence of the grossly illegal and improper way in which the jemadar in charge of the police station (who has, I learn, been discharged) managed the enquiry, &c., a conviction is impossible. In the first place, it no where appears who first discovered the woman and her nephew drugged and senseless. In the second, the lad Huree, first says, he recovered from his insensibility before his aunt and at once, without speaking to any one and of his own accord, went to give notice to the police; whereas a burkundaz went to fetch him. In the third place, the two witnesses to the confession, Purbhoo and Choonee (who can neither read nor write) say the prisoner did not really say in her statement (as she is made to say) that she would go and produce the ornaments, and contradict one another as to the presence of Budoee Telee, (witness No. 6) during the confession. Lastly, the property found in prisoner's house was searched for and found by the burkundaz, Ramlall, (witness No. 7,) no one being present at the time to testify to the fact.

The law officer concurs with me that from the mode in which the evidence has been tampered with and spoilt, and the enquiry misconducted, the prisoner must be acquitted; but partly from the strong suspicion there is against her in the case, partly from her being an old offender (having been previously imprisoned for a breach of the Abkarry laws;) partly from her defiant bearing before me, and especially for her disreputable mode of life (for she has left her husband and lives in open adultery with another man) and general bad repute, I order her to furnish security for future good behaviour to the amount of 100 Rs for three years from this date, or to be imprisoned for the like period with labor suited to her sex. Major Nation was, I think, quite justified in making the commitment

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr B. J. Colvin.) By Clause 2, Section 2, Regulation VIII. 1818, a prisoner acquitted of a specific charge can only be required to give security, on proof of "notoriously bad or dangerous character" derived from the proceedings. The reasons assigned by the sessions judge are therefore insufficient. We direct the prisoner's release.

PRESENT:
SIR R. BARLOW, BART., AND B J COLVIN, ESQ., *Judges.*

GOVERNMENT
versus
KESHUB LALL CHATTERJEA.

Patna.
1855.
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Case of KESHUB LALL CHATTERJEA
The Court rejected the appeal of the prisoner, who had been convicted on clear testimony by the sessions judge.

CRIME CHARGED —Knowingly uttering a forged document (marked B) purporting to be a certificate granted to him by Dr. Harland, principal assistant Behar opium agency, dated 1st July, 1855.

CRIME ESTABLISHED —Uttering and giving effect to a forged certificate in the English language, purporting to have been given to him and signed by Dr C Harland, well knowing the same to have been forged and fabricated, by fraudulently presenting the same to the collector of Patna for the purpose of obtaining employment in his office

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 14th August, 1855.

Remarks by the officiating sessions judge.—The prisoner presented an English letter to the collector, dated 2d July, 1855, applying for an appointment, and accompanied by a certificate, dated 1st July, purporting to be signed by the principal assistant to the Behar opium agency, Dr C. Harland. This certificate is verbatim to the following effect,* and the collector on the strength of it gave the applicant employment. It was however detected by the collector's head writer, Mr. J. G. D'Souza, witness No. 3, to be a forgery, and Dr. Harland, witness No. 1, has sworn that the certificate was neither composed nor signed by him, but that he did give the prisoner a certificate, describing his qualifications (in much lower terms) on the 2d July, and which witness for the defence No. 1, (Mr. G. Scott,) says was not delivered to prisoner's father until the evening of the 2d July. This certificate has been produced by the prisoner and is to the following* effect. It was written by Dr. Harland's direction by Sardah Purshad, witness for

Certificate of this bearer, Keshub Lall Chatterjea, was employed as an extra-writer of this Behar sudder opium godown office for the weighment of opium of the season of 1855-56. He is active, industrious and very attentive to his business, and he writes a good hand and calculates very correctly, during which time he gave me great satisfaction.

C. Harland,
Principal assistant, opium agent.

Behar sudder opium godown office, Patna, the 1st July, 1855.

* This is to certify that Keshub Lall Chatterjea has served in this department

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Case of KESHUB LALL CHATTERJEA.

as an extra-writer for about two months and he has performed the duties entrusted to him satisfactorily.		
Behar sudder opium godown office, Patna. The date effaced by blot, July 1855.	C Harland, Principal assistant, opium agent.	

prosecution No. 2, all but the signature.

The prisoner does not deny the application nor the presentation of the false certificate; but he says a friend of his, a Bengali, whose name he does not know, and who is now gone to Benares, but who was living with him at the time, copied the real certificate and altered the contents *out of spite to him*, as described above, and prisoner further accounts for the careful *erasure* of the date in the genuine certificate, all the rest of its contents remaining untouched, *by the ink having fallen on it*.

But the false certificate is signed in a different hand-writing from its contents, there are no words "copy" or "signed" on any part of it, the application giving it in treats it as an original; and the prisoner, who understands and writes English, if he had Dr. Harland's certificate at the time with him, must have known the one he handed into the collector was dated and written throughout incorrectly and in different terms from the true certificate; and if the prisoner, as seems probable from a comparison of dates, had not the true certificate by him, his crime is precisely the same. His witnesses neither clear him in any way from the charge, nor speak generally in his favor further than that he was formerly employed two months in the opium godown, when he did not misconduct himself.

As forgery and perjury seem to me to be more rife in the city of Patna than in any other part of India I am acquainted with, and as prisoner's absurd defence is an aggravation of his crime I, in concurrence with the law officer (whose *futwa* is "*tazeer*") sentence him to five years' imprisonment with labor and irons, for uttering and giving effect to a forged certificate in the English language, purporting to have been given to him and signed by Dr. C. Harland, well knowing the same to have been forged and fabricated, by fraudulently presenting the same to the collector of Patna for the purpose of obtaining employment in his office.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The Court having considered the proceedings, see no reason to interfere with the conviction and sentence passed upon the prisoner and reject his appeal.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND KOORANEE AWORUTH

versus

NEELMONEY DOSS, (No. 7,) MADHUB DUTTO, (No. 8,) DEENOO BAJEEKAR, (No. 9,) BENEE DUTTO,* (No. 10,) UKHOY DUTTO,* (No. 11,) HULLODHUR MUNDUL,* (No. 12,) KISSORE MUNDUL, (No 13.)

Moorshedabad.

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November 14.

Case of NEELMONEY DOSS and others.

The prisoners were sentenced to transportation for life on conviction of being accomplices in murder.

CRIME CHARGED.—Wilful murder of Gopal Mundul, brother of the husband of Kooranee Aworuth, the prosecutrix.

Committing Officer.—Pundit Muddunmohun Turkulunkar, exercising full powers of a magistrate.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 7th September, 1855.

Remarks by the sessions judge.—The prisoners pleaded *not guilty.*

In a murder-case lately tried by me of Musst. Nobrongo Bewah, prosecutrix, *versus* prisoner, Purran Nursoonder, I was compelled to animadvert in very strong terms upon the gross negligence and suspected complicity of the zemindar's gomashtah and local police, by means of which, the villagers were enabled to hush up the crime and guilt to escape the punishment.

There has been patent throughout the whole trial of this case, similar negligence on the part of the police, and in consequence a similar determination on the part of the villagers to screen the criminals.

Such negligence and such complicity are very common in Bengal, when heinous crimes are committed, and the parties implicated escape the penalty they deserve from the influence of caste, or position, or social brotherhood, or village interest. The sympathy with the criminal is greater, when he takes vengeance upon his victim for a wrong committed against himself, in which socially his relatives and the village community are interested.

This is just one of those cases and the guilty parties, through the wilful negligence of the gomashtah and the police, have very nearly escaped punishment. The conviction, under such circumstances, becomes difficult. The gomashtah, Radhanath Bagchee, in the service of Keshub Baboo of Nekapeeparah, has not yet been apprehended.

The facts of the case are briefly these. The deceased, Gopal Mundul, had kept up an illicit connection with Prosonno Aworuth

*, Acquitted by the lower Court.

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the wife of Dhurmo Dutto; on the evening of the 6th June last, Nilmonee Doss, prisoner No. 7, about 8 or 9 P M. called him from his house; at 11 P. M. he was sitting smoking with Prosonno in Dhurmo Dutto's house, when Madhub Dutto, brother of Dhurmo Dutto, entered and asked him to remove the pain of the prick of the *jeole* fish from his hand by charms and incantations. The deceased refusing at first, as he had charmed away the pain four days before, sat down and loosening his hair commenced operations, when Madhub seized him suddenly by the hair and forced him forward down to the ground and called out, and the prisoners, Nos. 7, 9, 10, 11, 12, and 13, with Dhurmo Dutto, and Kisto Dutto, rushed in and attacked him with *lattees*, &c.

Prosecutrix and witness No. 1.—These facts are deposed to by the prosecutrix, the sister-in-law of the deceased, and Prosonno the only eye-witness, the former stating that prisoner No. 7, called his brother-in-law away that night, and the latter narrating what occurred in Dhurmo Dutto's house in her presence. She saw all the prisoners attack the deceased and fled from fright. She states also, that she heard the deceased entreat prisoner, No. 7, to spare his life, and that prisoner No. 8, burnt deceased, and Kissen Dutto, (absconded,) twisted his neck.

This evidence of Prosonno was given very distinctly and without any hesitation. It remains to be determined how far it is worthy of credit, when compared with the other evidence, and carefully weighed with all the circumstances of the case.

Witness No. 2.—Teeluck chowkeedar was going his rounds and heard a noise about 11 P. M. that night in the house of Dhurmo Dutto, went there and saw prisoners, Nos. 7, 8, 9, and 12 beating deceased. He did not mention these prisoners in his deposition before the darogah, and there are some discrepancies in the different statements he has made.

It would be unsafe to rely upon his evidence. He gave it with the greatest reluctance and under much apprehension and confusion. The impression left by his evidence was that he knew much more than he chose to say, or had been so tutored that he found it difficult to steer a clear course and state truthfully what he knew.

Witness No. 13, heard a noise that night, went out, and saw on the road prisoners, Nos. 7, 8, 9, and 13, coming out of Prosonno's house and shouting "*már, már,*" returned afraid. They came with several others to his house, and lit some straw, and searched for Prosonno; seeing this, he ran away, it was about 11 P. M. His house was one and half *russees* distant from Prosonno's. He recognised the four prisoners distinctly by their voices, has known them from a child.

Witness No. 14, saw prisoners Nos. 7, 8, 9, and 13, come

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out of Prosonno's house, prisoner No. 7, asked him who he was, and when he replied, the prisoner abused him, and ordered the others to lay hold of him. One of the prisoners struck him and he fled to his house. He recognised them distinctly by their voices, has known them a long time.

Witness No. 16.—About 11 P. M. Prosonno called to him that they were killing his friend, went out and near Dhurmo Dutto's house heard shouts '*mar, mar!*' Heard the prisoners, Nos. 7, and 9, say, 'Prosonno is in Anund Hurree's house, let us go and burn the house and kill him and her?' Upon this, he fled, saw a fire lit in his house, returned to his house, in an hour after his return his son came home, Busseer Sheikh, witness No. 13.

The evidence of this witness tallies with the statement of Prosonno, that she came that night and called witness after flying from Dhurmo Dutto's house, and also with the evidence of his son, witness No 13, regarding the light in the house, when the prisoners searched for Prosonno.

Witness No. 17, recognised prisoners, Nos 9, and 13, that night, 11 P. M., by their voices near Dhurmo Dutto's house, with eight or ten others. This witness gave his evidence with reluctance, and did not agree in some points with the evidence he gave at the thannah and before the magistrate.

Witness No. 18.—She and her father, Teeluck chowkeedar, witness No. 2, both heard the noise at Dhurmo Dutto's house, and when he went to see and came back, he told her that the prisoners, Nos 7, and 8, Dhurmo Dutto and Kisto Dutto, had beaten him. Her father then went to the village and a little after the prisoners Nos 7, and 8, Dhurmo Dutto and Kisto Dutto came to her house and asked for Prosonno. She told them, Prosonno was not there. They lit a *mussal* and searched. The first noise she and her father heard was Prosonno's calling out that prisoners Nos. 7, and 8, were killing Gopal Mundul.

This witness gave her evidence with great clearness and readiness. She stated that the gomashtah, who absconded, tried to hush up the case.

Witness No 15.

The trial was postponed for some time on account of the absence of witness No. 15. His house was next to Dhurmo Dutto's. He states that he heard a noise about 11 P. M. Persons running through his compound, tried to get out, but found the chain of his door outside fastened; heard shouts of '*már*,' '*már!*' and when he called out 'who's there?' heard the prisoners Nos. 7, 8 and 13, call out '*choop thák, már sáláke.*'

This witness has given his evidence with the greatest reluctance, and under evident apprehension of the prisoners: he married a cousin of Dhurmo Dutto.

The witnesses Nayan Sheikh, Aynoodeen, Baboo Sheikh, and

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Nety Chowkeedar, summoned by the court, prove that Gopal Mundul, deceased, after the beating, was conveyed in a *garree* belonging to Baboo Sheikh, from the house of Dhurmo Dutto, to his own house.

Witnesses Nos. 6, 7, 8, 10, 11 and 12, saw the deceased, after he was brought to his house, covered with bruises, and marks of burning upon his body, and some of his fingers broken, and heard him say (the last words he was able to utter) that the prisoners Nos. 7, 8, 9, 10, 11, 12 and 13, had beaten him; witness No. 8, heard him mention all the prisoners and Dhurmo Dutto and Kisto Dutto; witness No. 6, the prisoners Nos. 7, 8, 9, 12 and 13; witness No. 10. the prisoners Nos. 7, 8, 9, 10, 11 and 12, Dhurmo Dutto and Kisto Dutto; witness No. 11, the prisoners Nos. 7, 8, 9, 12 and 13, Dhurmo Dutto and witness No. 12, the same prisoners.

Dr. Saunders' evidence proves that the deceased died of the injuries he had received, which were caused, in his opinion, by *lattees*, or blunt instruments. He did not observe marks of burning, but he examined the body three days after death, when it was decomposed.

Witnesses were examined for the defence, but there was nothing exculpatory in their evidence.

Witness No. 29.—Witness No. 29 saw prisoner No. 10, at 11 P. M. that night at the door of Dhurmo Dutto's house, as if he had just come out of it, saw him give water to the deceased. The gomashtah was there with others and prisoner No. 7.

The prisoner No. 10 admits that he gave deceased water, and that he brought it from the house of Nobo Shein, and that the gomashtah with others was there.

Witness No. 17.—Witness No. 17 saw the prisoner No 10, give water to the deceased.

Witness No. 23.—Witness No. 23, saw prisoner No. 7, at the zemindar's cutcherry at 8 P. M., when he left, he said that he had a headache and went home. On other nights he used to stay till 11 P. M., witness remained with the gomashtah, heard a noise about 11 P. M., went with the gomashtah, called prisoner No. 7, from his house, went to Dhurmo Dutto's and saw deceased upon the ground, saw Nayan Sheikh, Aynoodeen and others, whom he mentions, take deceased away in a *gharree*.

This evidence for the defence establishes two or three facts: 1st, that the prisoner No. 7, was, at 8 P. M. with the gomashtah, at the zemindar's cutcherry, that he left at that hour complaining of a headache, though he was in the habit of remaining till 11 P. M.

The prosecutrix states that the prisoner No. 7, about 8 or 9 P. M., took away the deceased from his house, and the mother of the deceased stated that the deceased had mentioned the circum-

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stance to her, when he was brought wounded to his house, and disclosed the names of those who had beaten him.

2ndly. That the gomashtah, on hearing the noise at Dhurmo Dutto's house, called for prisoner No. 7, on the way.

The attack must have occupied a very short time, as the villagers were gathered to the spot immediately after on hearing the noise. Nothing was easier than for prisoner No. 7, to have left Dhurmo Dutto's house and gone to his own, which was near, directly after the attack.

3rdly. The gomashtah must have been one of the first at Dhurmo Dutto's house, was present when prisoner No. 10, gave the deceased water, and being the chief person in the village, must have made the arrangements for the removal of the deceased in the *gharree* to his own house, and yet in the face of these facts, and although Teeluck chowkeedar, in the information he gave at the thannah on the 8th June, stated that on his first arriving at Dhurmo Dutto's house, he saw the gomashtah there, and although after the darogah's arrival on the spot, the gomashtah remained three or four days, while the darogah was following up his enquiries, and although the first report of the chowkeedar which he carried to the thannah, was written by the gomashtah, stating only that on the night of the 6th June, Gopal Mundul had been beaten, and the date in this report had been for some purpose altered, the darogah never examined the gomashtah, and never reported to the magistrate the suspicion which he must have entertained of his conduct. I notice, moreover, that the darogah never made any enquiry regarding the manner in which Gopal Mundul was removed from Dhurmo Dutto's house to his own until the 11th June, when he states that Nayan Sheikh and Busseer Sheikh saw him conveyed in a *gharree*.

After taking the evidence in this case of the witnesses whom the darogah sent in, the magistrate made over the case to the Pundit for trial on the 25th July, and I do not find that any enquiry on these points was made by that officer, or any notice taken of the darogah's neglect; Dhurmo Dutto, Kisto Dutto, and the gomashtah have absconded. In spite of the suspected complicity of the gomashtah, the neglect of the police, and the attempt to hush up the case, there is evidence sufficient, in my opinion, for the conviction of some of the prisoners.

The jury convict the prisoners Nos. 7, 8, 9, 12 and 13, as principals and Nos. 10 and 11, as accomplices in the murder of Gopal Mundul upon violent presumption.

Although the deceased was heard to name all the prisoners, and Prosonno, witness No. 1, saw them all assault the deceased, there is no corroborative testimony against the prisoners Nos. 10, 11 and 12. Teeluck chowkeedar, witness No. 2, mentions prisoner No. 12; but on his evidence I cannot place much reliance, and he never mentioned him before the darogah.

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Such evidence, uncorroborated, can only raise strong suspicion, but not sufficient for their conviction, and I therefore acquit them.

The same evidence against the other prisoners Nos. 7, 8, 9 and 13, corroborated by the evidence of the witnesses Nos. 13, 14, 16, 18 and 15, for the prosecution, and the coincidental testimony of witness No. 23, for the defence, is sufficient legally to convict them upon violent presumption, and as the assault was made upon the deceased preconcertedly in the dead of night with weapons likely to cause death, and as the deceased died the night after from the injuries he had received, I convict them of being accomplices in the murder of the deceased, and recommend them to be sentenced to imprisonment for life with labor in irons in banishment.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The evidence of the prosecutrix, of Prosonno Aworuth, Madhub Kyburt and Ramlal Koond, fully establish the charge against the prisoners; they were recognized, and the deceased shortly before he died repeatedly named them as the persons who had beaten him and were the cause of his death. He was called away by prisoner No. 7, to another house, and was requested to cure a sting of a fish by charms, whilst thus engaged, he was seized and beaten, as has throughout the case been distinctly proved by the evidence for the prosecution, by the prisoners and others, some not apprehended, and died in consequence the following night. We convict the prisoners of being accomplices in the murder, and sentence them to imprisonment for life in transportation.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT

versus

NARAIN DEY.

West-Burdwan.

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Case of NARAIN DEY.

The conviction of the prisoner for perjury was affirmed.

CRIME CHARGED.—Perjury in having on the 11th May, 1855, corresponding with the 29th Bysack, 1262, B. S., in the case of the prisoner, Mooktaram Mudduck, charged with culpable homicide of Tarachand Dey intentionally and deliberately deposed, under a solemn declaration taken instead of an oath, before the joint-magistrate of Bancooran, to the effect that he saw Mooktaram Mudduck strike Tarachand Dey *with a piece of wood* in a mutual quarrel, and on cross-examination that he saw him strike Tarachand with a *lattee*, and, in having on the 13th August, 1855, corresponding with the 29th Srabun, 1262, B. S., again intentionally and deliberately deposed, under a solemn declaration, taken instead of an oath, before the sessions judge of West-Burdwan, to the effect that, having heard from his own shop, the noise of quarrel between Mooktaram Mudduck and Tarachand Dey, he went to the spot and found the latter sitting on the ground in a bending posture, and with his forehead bleeding, that one Manick Tantee informed him that Mooktaram had struck Tarachand with a *lattee*, and entered his own house and that he had not seen the said Mooktaram beat the said Tarachand with a *lattee*, and that he had not said so in the foujdary court. Such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED. Perjury.

Committing Officer. -Mr. J. S. Spankie, joint-magistrate of West-Burdwan.

Tried before Mr. Pierce Taylor, sessions judge of West-Burdwan, on the 5th September, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case, drawn under Act XXXIII. of 1854, were as follows:

This case is sufficiently particularized in the charge. The prisoner is one of the brothers of the deceased, Tarachand Dey, culpably slain by Mooktaram Mudduck who was sentenced to four years' imprisonment, with labor in irons in the zillah jail, by this court, on the 20th ultimo. The only other eye-witness of the deed, viz., the prisoner's elder brother, Sreekanth Dey, distinctly stated that he had seen the aforesaid Mooktaram strike the deceased *with a piece of wood.* The *talookdars* of Sreerampore had palpably conspired to make the case break

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Case of NARAIN DEY.

down, because they had been accused of concealing the culpable homicide, and there is reason to believe that the perjury, committed by the prisoner must have been suborned by them. To account for the change from '*a piece of wood*' to a '*lattee*,' in the deposition given by him before the joint-magistrate, it appears necessary to state that the former weapon was mentioned by the prisoner in his examination in chief, and the latter during cross-examination, in answer to the fourth question put to him by the joint-magistrate It is probable that he used the word *lattee* as a mere synonym for *a piece of wood*, but it does not distinctly appear whether the joint-magistrate employed it in the same manner, or not As the point material to the issue of the case, in which the prisoner was a witness, was, whether he had personally seen Mooktaram *strike* the deceased, Tarachand, or not, the main charge of perjury, made against him in this, is not affected by the ambiguity of expression above adverted to.

The prisoner's defence is, that he was under the influence of *subjee* or *bhang* which had been administered to him by a *kuberaj*, for pains in his stomach, when he gave his contradictory deposition before this court, and he has adduced certain witnesses who affirm, though in a discrepant manner, that he took the intoxicating drug alluded to, before he came to give evidence. The futility and falsehood of the defence are palpable.

The *futwa* of the law officer is one of conviction, *on violent presumption*, and declares the prisoner liable to *tazeer*, or discretionary punishment. As the evidence of the persons who wrote and heard the contradictory depositions, and administered the solemn declaration, made instead of an oath, to the prisoner have distinctly proven that he actually delivered the said depositions, which also bear his signature and that of the joint-magistrate, the court considers the crime of perjury fully and legally proven against him, and convicting him, in general accordance with the opinion of the law officer, sentences him to three years' imprisonment, with labor and irons in the zillah jail.

The usual warrant of imprisonment will be made out and forwarded to the joint-magistrate without delay. The record will be sent to the magistrate's office, as soon as the period of appeal shall have expired

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin) The Court cannot admit the plea repeated in the appeal of the prisoner that he was under the influence of *bhang*, when he gave his evidence in the sessions court, on the 13th August.

There is no evidence that he was so affected by it as not to be in full possession of his senses, while the sessions judge declares the plea to be false.

With reference to the sessions judge's letter No. 174, dated

8th ultimo, the Court do not consider there has been any such informality in the commitment as to require a new trial, as the prisoner was sent to the magistrate, by the sessions judge and the case submitted for trial under his instructions as recorded by the magistrate in his order, dated 30th August, 1855.

1855. — November 14. Case of NARAIN DEY.

In future however the sessions judge will follow the course laid down in the Court's letter No. 1711, of the 31st December, 1852.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT

versus

RAMESSUR MUNDUL (No. 1) AND TARACHAND PAUL (No. 2.)

Hooghly.

1855. November 20. Case of RAMESSUR MUNDUL and another.

The conviction was affirmed.

CRIME CHARGED.—Perjury, in having deposed on solemn affirmation before the deputy magistrate of Jahanabad, on the 27th April, 1855, in a case of assault and plunder, in which one Bippoodoss Naik was defendant, that the said defendant, Bippoodoss, was their *grám shumpurkea mámá*, or maternal uncle by village relationship, and prisoner No. 1, in having further deposed on solemn affirmation that his maternal grandfather Kasheenath Naik, was paternal uncle to Bippoodoss and in prisoner No. 2, having further deposed on solemn affirmation, that his mother was not the said Bippoodoss's own sister, such depositions being false and having been intentionally and deliberately made on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Moulvee Abdool Luteef, deputy magistrate of Jahanabad Sub-division.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 14th September, 1855.

Remarks by the additional sessions judge.—Bippoodoss was a defendant in a criminal charge brought by Byrubchunder; the prisoners were named by Bippoodoss as his witnesses. In their respective depositions, they are each accused of having twice perjured themselves. Both prisoners affirm contrary to the truth that Bippoo was their *grám shumpurkea mámá*; prisoner No. 1, further affirmed contrary to the truth, that Kasheenath was Bippoodoss's father's brother, and prisoner No. 2, falsely affirmed that his mother was not Bippoodoss's

1855.

November 20.

Case of RAMESSUR MUNDUL and another.

sister. It has been proved by witness No. 9, that the prisoners did make the statements imputed to them.

It has been proved that Bippoodoss is own brother to the mother of prisoner No. 1, and of prisoner No. 2.

It has been proved that Kasheenath is Bippoo's father.

Grám shumpurkea mámá is in reality no relationship at all. For example two men of the same place agree to call each other brothers; the relations of the one, are relations of the other, not, of course, by blood or by alliance by marriage, but because the parties have mutually consented to the feigned relationship. The object of the defendants in calling Bippoodoss their *grám shumpurkea mámá*, whereas he was their *mámá* by a blood-relationship, was manifestly to conceal the intimate nature of the relationship existing between them and Bippoo, on whose behalf they were witnesses, and they did it, there can be no doubt, in the hope that their evidence would tell better in Bippoo's behalf by such concealment.

The same motive plainly actuated the prisoners in the other instance of the charge.

The defence of the prisoners is, that they called Bippoodoss their maternal uncle, and that they did not say he was their uncle only by *grám shumpurkea* relationship; prisoner No. 1, further maintains that he called Kasheenath, the father of Bippoo, and prisoner No. 2, denies that he said that Bippoo was not his mother's brother.

The law officer convicts the prisoners of the perjury charged against them, and I sentence them, in agreement with the *futwa*, to three years' imprisonment each with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) I see no reason to interfere with this conviction. The charge of perjury is clearly proved against the prisoners, whose appeal I therefore reject.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT AND BYJNATH SAHOO

versus

BODHA TELEE.

Sarun.

1855.

November 20.

Case of BODHA TELEE.

Appeal rejected.

CRIME CHARGED.—Embezzlement of Co.'s Rs. 1,600, belonging to his master (and which was entrusted to his care for conveyance to the Kotee of Sheogolam Sahoo,) 2nd count, theft of Co.'s Rs. 1,600.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. W. F. McDonell, officiating magistrate of Sarun.

Tried before Mr. Henry Atherton, sessions judge of Sarun, on the 13th July, 1855.

Remarks by the sessions judge.—This is a case evincing singular carelessness on the part of the prosecutor, Byjnath Sahoo, who, it seems, on the 11th January last, without any guard, sent the prisoner Bodha Telee, a cooly in his employ, with a bag containing 1,600 Rs from his shop at Revilgunge with directions to take the money to Sheogolam, a Banker of Chuprah, and bring back a receipt Not hearing of the arrival of the money, Byjnath went next morning to Sheogolam's and finding that the money had not been taken there, immediately complained at the thannah. Search was every where made for some months without success, but the prisoner was at last apprehended near Bettia. The witnesses Nos 2, 3 and 4, Mongur, Bhowany and Amaun, prove that the prisoner was sent off by the prosecutor with the bag of money, Amaun declaring that the money was counted in his presence. In the answer first of all taken at the thannah, the prisoner admitted having been sent away with the money and he made a statement pretty much to the same effect when questioned by the magistrate after his seizure in June last, but when his defence was taken, and it should have been taken at first, he said he was sent off with a bundle with another man who took him to a person at Burehpore near this place Here he denies the charge, saying, he went to Burehpore where the sepoy, whose name he does not know, took him, but he calls no witnesses in his defence. The Moulvee convicts the prisoner of embezzlement and I agree with him, conviction in this count including the crime charged in the second, and I accordingly sentence the prisoner to (7) seven years' imprisonment with labor in irons and to a fine of 1,600, Rs. payable to plaintiff, under Act XVI.

1855.

November 20.

Case of BODHA TELEE.

of 1850. This fine may be a nominal punishment only, but it is well to impose it

Remarks by the Nizamut Adawlut —(Present: Mr. B. J. Colvin) Having examined the proceedings I see no reason to doubt the prisoner's guilt I reject his appeal

PRESENT:

B. J COLVIN, ESQ., *Judge*.

GOVERNMENT AND GORRUK LALL

versus

NARYN (No 2,) BOGWAN (No 4,) NATH (No. 6.)

Sarun

1855.

November 21.

Case of NARYN and others.

Appeal of prisoners rejected. They had admitted the main facts against themselves, and their plea of collusion between prosecutor and the police was not proved.

CRIME CHARGED —Prisoners Nos 2 and 4, feloniously having in their possession stolen property knowing the same to have been stolen and belonging to plaintiff Prisoner No. 6, accessary both before and after the fact of burglary and robbery.

CRIME ESTABLISHED — Prisoners Nos. 2 and 4, feloniously having in their possession stolen property knowing the same to have been stolen and belonging to plaintiff. Prisoner No. 6, privy to the burglary and robbery of property value Rs 463 15-6, which took place in the house of prosecutor Gorruk Lall on the 14th June, 1855

Committing Officer - Mr J. F Lynch, deputy magistrate of Sewan, Sarun.

Tried before Mr Henry Atherton, sessions judge of Sarun, on the 28th August, 1855.

Remarks by the sessions judge. The house of the prosecutor was broken into during the night of the 13th June last. The thieves were disturbed before day-break of the 14th by the chowkeedar who followed them some distance without success. Property to the amount of Rs 463-15-6, consisting of clothes of different kinds, money, ornaments and utensils was carried off. After reporting the robbery to the village patwary and one of the putteedars, the prosecutor and chowkeedars witnesses Nos. 2 and 3, Bidatha and Mohit prepared to start for the thannah. The two latter went on ahead and on reaching *purhkeenia* a short distance from the prosecutor's village Puttar, they met Pitumber witness No. 1, a lad and relation of Bidatha, who on hearing of the robbery told them he had in the morning seen Naryn and Naik, prisoners Nos. 2 and 3 in the calendar, hiding some clothes in their field some distance from the village, Bidatha and Mohit immediately went there and found Naryn occupied as he had been represented articles Nos. 1 to 13 being found with him and he was at once seized. Mohit then went to

1855. November 21. Case of NARYN and others.

call the prosecutor who soon reached the spot, Naik prisoner No. 3, in the calendar came up afterwards and promised, it is said, to give up all the property, but he failed to do so, and nothing was afterwards found on him. The parties then proceeded to the thannah and the darogah entering immediately on the enquiry apprehended Nath prisoner No. 6, in the calendar, and another simply from the fact of their being bad characters. Nath then explained how other parties had agreed to commit the robbery in which he refused to join, and his statement led to the apprehension of Bogwan prisoner No. 4, in whose house was found property belonging to the plaintiff from Nos. 14 to 26. There is clear proof I think that prisoners Nos. 2 and 4, are guilty of the crime charged against them. They should indeed have been committed for knowingly receiving stolen property, for there can be no doubt from the proceedings in the case that when the property came into their possession they knew it had been acquired by theft, and they deserve severe punishment. Nath No. 6, is I consider only shewn to have been privy to the robbery by others and for this may be punished, as privity is involved in the charge brought against him. That he was so privy is clear, or he could have given no clue to the discovery of the property. The Moulvee agrees with me in the view of the case, and I sentence them as noted below.

Sentence passed by the lower court.—Prisoners Nos. 2 and 4, four years' imprisonment with labor and irons; prisoner No. 6, three years' imprisonment and a fine of fifty rupees, in default of payment to labor.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The Court see no reason for interference. The main facts are allowed by the prisoners in their several answers. They, however, plead collusion between the police and prosecutor, but there is no proof of this. I reject their appeals.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND MUSST. RUTNEE ALIAS MUSST. ETWAREE

versus

MUTHA (No 11,) AND MOOSOO (No. 12.)

Chota Nagpore.

1855.

November 23.

Case of MUTHA and others.

The prisoners were not sentenced capitally in consequence of extenuating circumstances.

CRIME CHARGED. —Wilful murder of Moolia, brother of the prosecutrix.

Committing Officer —Capt. W. H. Oakes, principal assistant commissioner, Lohurdugga division.

Tried before Major J. Hannyngton, deputy commissioner of Chota Nagpore, on the 26th September, 1855.

Remarks by the deputy commissioner.—The prisoners plead guilty.

It appears that the deceased Moolia, a young man, dwelt in the house of his brother-in-law, the prisoner Mutha, at Bansloya village,* that his body was discovered lying there seeming many days dead hanging on a tree in a grove of underwood near the village of Kooroochdega,† and that on inquiry by the police officer the prisoner confessed‡ to having murdered the deceased because he had criminal intimacy with Musst. Sookwaro *alias* Chogo, who is the daughter of the prisoner Mutha and sister of the prisoner Moosoo.

* Musst. Rutnee

† Bhookaram Tulia.

‡ Mheema Phagoo.

Musst. Sookwaro *alias* Chogo states that at night the deceased entered the room where she slept, and forced her person, whereon she crying out, the prisoner, her father, came and killed the deceased with an axe. Her brother, the prisoner Moosoo, also struck the deceased with a club. Deceased was then sitting on her bed, having already effected his purpose. Witness did not mention the fact to any one in the village but fled to the house of a relative.

The confessions of the prisoners before the police officer are to the effect that the deceased was unduly intimate with Musst. Chogo, that they therefore killed him by night, and carried his body to the grove in Kooroochdega where they hung it on a tree. The prisoner Mutha struck the deceased three blows with a sword, and the prisoner Moosoo struck the deceased two blows with a splinter of fire-wood.

The confessions before the principal assistant are to the effect that the deceased Moolia had forced the person of Musst. Chogo, and that hearing her outcry they went and killed the deceased, disposing of his body as related in the former confession. The

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Case of MUTHA and others.

prisoners add, that they did not tell any of the villagers what had happened.

The prisoners in their defence urge the substance of their confessions before the principal assistant.

Ukhowry Injory Lall Mookhtear.
Ramkanye Roy ditto.

The jury* find the prisoners guilty according to the tenor of their own confessions.

Except the confessions of the prisoners, there is no evidence on which they can be convicted. That they did kill the deceased, cannot reasonably be doubted, and if the circumstances are to be taken as they stand in the confessions before the principal assistant, the guilt of the prisoners may be much extenuated. Putting aside any legal fiction as to how confessions must be construed, I am not disposed to receive the second confessions as being strictly true. In the first confessions the prisoners said that Musst. Chogo had been intimate (*phusa*, entangled) with the deceased, and that they therefore killed him. There is no hint of any special act having occurred. The prisoners removed the body to another village, and did not mention the murder to their neighbours. Musst. Chogo fled from her home, and was not present at the inquiry made by the police. These circumstances lead me to conclude that Musst. Chogo had been behaving improperly with the deceased and that the act of the prisoners was premeditated, I therefore find the prisoners guilty of the murder, and allowing that some extenuating circumstances exist, I would recommend that the prisoners be sentenced to imprisonment for life with hard labor in irons, and in transportation.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The only question in this case is, whether any weight can be given to the plea urged by the prisoners, in their second confessions, that they caught the deceased in the act of violating Musst. Sookwaro. We concur with the deputy commissioner in believing their first story before the police of an intrigue to be the truth. Had their second confessions contained the truth, there would have been less reason for concealment and for the flight of the young woman from the village. In consideration of the extenuating circumstances advanced by the deputy commissioner, we sentence the prisoners, as proposed by him, to imprisonment with labor and irons in transportation beyond seas for life.

PRESENT:

H. T RAIKES AND B. J COLVIN, ESQS., *Judges.*

Sarun.

1855.

November 23.

Case of INDERJEET SINGH.

The prisoner was acquitted of perjury, as he only contradicted his former statement after having been placed in custody by the magistrate

GOVERNMENT

versus

INDERJEET SINGH.

CRIME CHARGED —Perjury in having on the 11th August, 1855, corresponding with 13th Sawun, 1262, F. S. deposed under a solemn affirmation taken instead of an oath before W. F. McDonell, Esq, officiating magistrate of Sarun, that the man (the defendant in court) had left and was not in Amnour, whilst he was in the service of Baboo Koer Singh, and in having on the 14th August, 1855, corresponding with 16th of Sawan, 1262, F. S again intentionally and deliberately deposed under a solemn affirmation taken instead of an oath before the aforementioned court, that when he entered the service of Koer Dowlut Singh, this man (the defendant in court) was in Amnour; such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED -The same as crime charged.

Committing Officer —Mr. W F. McDonell, officiating magistrate of Sarun.

Tried before Mr Henry Atherton sessions judge of Sarun, on the 28th August, 1855

Remarks by the sessions judge.—The statement in the calendar as follows explains this case.

"In the case of Government *versus* Ramperkas Singh, defendant (who stated his name to be Phagoo Singh) charged with murder, the defendant was sent to this district from Azimghur that inquiries might be made regarding the truth of his statement. During the investigation Inderjeet Singh, the present defendant, along with several other witnesses attended this court to give evidence and on the 11th August, corresponding 13th Sawun, 1262, F. S. under a solemn affirmation, deposed intentionally that the defendant was not at Amnour, when he (Inderjeet) was in the service of Koer Singh, and again on the 14th August, 1855, corresponding to 16th Sawun, 1262, under a solemn affirmation, deposed intentionally that the defendant was at Amnour when he (Inderjeet) entered the service of Koer Dowlut Singh, such statements being contradictory of each other on a point material to the issue of the case."

The object was to find out whether or not at a certain time Ramperkas or Phagoo Singh, the prisoner in the magistrate's court, was at Amnour in this district, and it is clearly shewn by

1855. November 2[?] Case of INDERJEET SINGH.

the evidence of witnesses Nos. 1, 2 and 4, (I attach no value to that of witness No. 3, from the shuffling manner in which he deposed in my court) that the prisoner when examined under Act V. of 1840, said that at a particular time, the prisoner in the magistrate's court was not at Amnour, and then that he was. Indeed the defence in my court is equivalent to a confession of the crime, for he pretends contrary to the statement first made by him, that the mohurrir and the magistrate himself urged him to make a statement contrary to the one first made. The Moulvee concurs with me in considering the charge proved, and I consider the sentence passed required

Sentence passed by the lower court.—Three years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut. -(Present. Messrs. H. T. Raikes and B. J. Colvin.) We cannot concur in the propriety of this conviction. The prisoner, after being subjected to a severe cross-examination on the 11th August, was put into *hajut* by the magistrate, on the ground that he had not answered some questions, and he had answered others after much delay On being brought up again to give evidence on the 14th August, he contradicted himself as set forth in the charge, but on the contradiction being pointed out to him, and on his being asked which statement was true, he at once replied that that of the 11th of August was true, and he had said what he then (i. e on the 14th) said from fear of the magistrate.

We consider that the magistrate was not justified in committing him into custody for the reason assigned, or in treating him as a recusant witness to be dealt with under Regulation L. of 1803. It is evident that the contradictory statement was the result of fear, in consequence of his detention in *hajut* It cannot therefore be regarded as wilful perjury. Under these circumstances, we acquit him and direct his release. It was open to the magistrate, on proof to the contrary of his statement made on the 11th August, to have committed him for perjury in making a false statement; but the charge, based as it is upon contradictory statements, cannot be sustained

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

KUNAHI KULWAR.

Patna.

1855.

November 23.

Case of KUNAHI KULWAR.

There having been no premeditation, the prisoner, convicted of murder, was sentenced to imprisonment in transportation for life.

CRIME CHARGED.—Murder.

Committing Officer.—Mr W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 1st November, 1855.

Remarks by the officiating sessions judge.—The prisoner is an industrious lad who lives (in a shop of his own in the city of Patna) by turning small boxes. It appears that on the 8th ultimo (October) an elder brother (the deceased Balkishen) came to his shop and quarrelled with him as to the payment of a joint debt to a Mahajun; that besides angry words, the brothers pushed and hustled one another, the elder brother attempting to carry the prisoner off with him to the Mahajun, and that the prisoner losing his temper, stabbed his brother to the heart.

The defence is, that the deceased in the struggle fell over a basket of turning tools; and that the wound, of which he almost instantaneously died, was caused by one of these tools (which the prisoner pointed out and which has been produced in court) piercing the chest of the deceased in his fall. But the evidence adduced by the prisoner does not in any way directly and positively corroborate his account of the accident, for there was no one else in the shop at the time, or even very near it.

For the prosecution the evidence is this: *Luchmun Pandey*, witness No 1, was sitting at the time in a shop at the same side of the street, but close by, and with a *gully* or lane only intervening between the two, when he heard the brothers disputing, though about what, he could not distinguish; shortly after, he saw the deceased come out into the road, when the prisoner followed him with a knife in his hand (like a European dinner-knife) stabbed the deceased in the breast and ran away. Nothing was said when the blow was struck, witness never saw deceased before, and cannot say whether or not he spoke after he was wounded, a crowd immediately collected and he saw no more. *Ukloo Teli*, witness No. 2, knew both prisoner and deceased, and lives on the adjoining premises, prisoner is his tenant, deceased used to visit prisoner occasionally, and on the day in question he came to get some money from him. They disputed who was to pay and when. They abused one another and pushed and struggled together. Then they both went out of the shop on to the road (bazar) and prisoner stabbed deceased,

1855. November 23. Case of KUNAHI KULWAR.

witness saw no knife. After being stabbed, deceased cried out, "I am stabbed," and then prisoner ran off. *Witness saw the knife*, but is unable to describe it.

Gurboo Teli, witness No. 3, was sitting in Teka Sao's shop, where the first witness was. He also says persons could not from Teka Sao's shop see what was going on at the prisoner's shop from their relative positions. He heard the noise and the quarrel going on between the brothers about the payment of a debt, and prisoner say he could not pay it. The two brothers made a great disturbance and hustled one another. Afterwards both came out of the shop on to the road, when witness from the child in his arm being alarmed, re-entered Teka Sao's shop, and saw no more, though he heard, he says, deceased call out that his brother had stabbed him and run away, after which deceased immediately fell down dead. *This witness saw no knife* on prisoner. The evidence of the civil surgeon, Dr. W. S. Dicken, witness No. 5, is that the wound penetrated to the heart, and must have caused almost instantaneous death; that the wound from its lengthened shape could not have been inflicted with a "turning tool" like that produced, but in all probability with a long knife; and that a person thus wounded could *perhaps* say a word or two before he died.

At all events a person *falling on a native turning tool* could scarcely be thus wounded. But I do not credit the evidence of the eye-witnesses as to the place where, and the mode in which the wound was inflicted. I am of opinion that there was no reason why prisoner should follow his brother out of the shop; that the blow was struck with a bread-knife at hand in a momentary fit of passion, inside the shop, and in the sight of no one; that the deceased staggered out of the shop, and died on the spot without saying a word; and that the eye-testimony to the knife and the blow on the road was an after-thought of the police to make the case more complete (*muzboot*) according to their infamous custom in these parts. The prisoner flying and being apprehended concealed in a friend's house at some distance, confirms my suspicion of his guilt, as also my suspicion that he did not strike his brother the fatal blow in the presence of several persons in the open street. Had he done so, he would surely have been seized on the spot with the knife upon him.*

I have tried this case with the assistance of a jury, who have found the prisoner guilty of aggravated culpable homicide. I concur in this verdict, and taking into consideration the absence of premeditation, the provocation given by the deceased, and the prisoner's youth and previous good character, I recommend a sentence of ten years' imprisonment with labor and irons in banishment.

* The knife has not been found. Prisoner carried it off with him, I imagine, and got rid of it before he was captured.

1855.

November 23.

Case of KUNAHI KULWAR

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and B. J. Colvin.) We see no reason to share in the doubts expressed by the sessions judge regarding the honesty of the evidence tendered in this case. There is every reason to believe that some altercation having taken place between the prisoner and his brother, regarding a debt due to their Mahajun, the latter attempted to carry off the former to the creditor, and in the struggle, which ensued, the prisoner made use of a knife and stabbed his brother to the heart.

The act cannot have been premeditated; but looking at the weapon used, and the vital part of the person at which the blow was aimed and its deadly effect, it is impossible to acquit the prisoner of all intention to take his brother's life. We therefore convict the prisoner of murder, but sentence him under the circumstances to imprisonment for life in transportation.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*

GOVERNMENT

versus

SOMAREE.

Tirhoot.

1855.

November 23.

Case of SOMAREE.

The prisoner was sentenced capitally.

CRIME CHARGED.—Wilful murder of his wife, Musst. Bhugnee.

Committing Officer.—Mr H. C. Wake, officiating joint-magistrate of Chumparun.

Tried before the Honorable R. Forbes, sessions judge of Tirhoot, on the 19th October, 1855.

Remarks by the sessions judge.—As my law-officer and myself agree in finding the prisoner guilty of wilful murder, the final order can only be passed by the superior court.

The witness No. 1, Teelok Mullah, is the own brother, and the witness No. 2, Teemul Mullah, the brother-in law of the prisoner, and all three lived in the same court-yard, and it appears that about 11 A. M. of the day of the occurrence, which led to this trial, the two witnesses were sitting in the cow-house, when the prisoner came home from the field with his *koodalee* in his hand and entered the house, where his wife, the deceased Musst. Bhugnee, was sitting at the time, almost immediately after which, they heard the sound of blows in the eastern apartment and running there, they saw the deceased lying on the ground wounded and nearly dead, and the prisoner in the act of striking her with his *koodalee*, with which they both saw him strike her one blow, and on seeing them, the prisoner threw

1855. November 23. Case of SOMAREE.

down the *koodalee* and was running away, when the witnesses laid hold of and secured him. Shortly after the deceased breathed her last, and the prisoner, on the witnesses asking him why he had killed his wife, replied, that she had kicked the dish containing his food.

The sub-assistant surgeon, Mr. Durant, who examined the body, deposed to finding seven deep cuts on the back of the neck, head and shoulders, each was a deep gash some inches in depth, and the cut on the neck had severed the bones of the spine. The skull was not fractured, but a piece, the size of a rupee, was cut clean out at the back part of the head, severely injuring the brain, and which, I have no doubt, was the cause of her death. These wounds appeared to have been all inflicted by some sharp, heavy, and cutting instrument, and might have been done by a *koodalee*, such as is produced in court

In the mofussil, and both in the foujdary and this court, the prisoner confessed that he had killed his wife, because she had been unfaithful to him and would not sleep with him, and had also kicked the vessel, which held his food. He called only one witness, who could not say any thing to benefit him.

The *futwa* of the law officer, convicting the prisoner of the wilful murder of his wife, declares him liable to punishment by *kissas*, in which finding I concur. I consider the act of the prisoner to have been wilful and deliberate, under the influence of feelings of enmity and malice, whether well or ill-founded (for there is no proof of the deceased having been unfaithful to him) and regretting that I can discover no plea of mitigation to urge in his behalf, I deem it my duty to recommend the infliction of the law's severest penalty to deter others from the commission of this too common crime in this country.

Remarks by the Nizamut Adawlut – (Present Messrs H. T. Raikes and B. J. Colvin) The prisoner has confessed throughout, as remarked by the sessions judge, and we see no extenuating circumstance to justify a less severe sentence than that recommended by the lower court.

We convict the prisoner of the wilful murder charged, and sentence him to suffer death

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND SHEIKH BECHOO

versus

MUHUNGOO (No 5.) GOLAM ALI (No. 6, APPELLANT,) MOJ (No. 7, APPELLANT,) GOLAM HOSSAIN (No. 8.)

Purneah.

1855.

November 24.

Case of GOLAM ALI and others.

The evidence being considered insufficient for conviction, the prisoners were released on appeal.

CRIME CHARGED.—1st count, dacoity and plundering of property and cash valued at Rs. 4,972-13 0; 2nd count, being accessaries in the above before and after the fact; 3rd count, privity before and after the fact, and 4th count, having stolen property in their possession, knowing it to have been obtained by dacoity.

CRIME ESTABLISHED.—The same as crime charged.

Committing Officer.—Mr. G. A. Pepper, magistrate of Purneah.

Tried before Mr. G. Loch, sessions judge of Purneah, on the 4th July, 1855.

Remarks by the sessions judge.—On the night of Saturday, 2nd Poos, 1261, B S 16th December, 1854, a gang of fifteen or twenty dacoits attacked the premises of the prosecutor's sister, Musst. Hasoo, in Mowha Bomaite, thannah Dumdaha. Having seized her, the dacoits threatened to throw her down a well, unless she discovered where her property was concealed. She pointed out the recesses in the wall of the eastern house, which had been plastered up, and the dacoits opening these, carried off property in ornaments and cash valued at Rs. 4,972-13, and were not disturbed in their retreat The darogah of Thannah Dumdaha apprehended and sent in Mujlis Dosad with some property, and suspecting Moj and Golam Ali, who are of bad characters, searched their houses, but found no property and released them on security. The magistrate then employed Holas Chund and Sham Lahree, *goindas*, to trace the robbers, and on 16th February, 1855, they brought the prisoner Muhungoo, to his camp at Doolargunge, who confessed to having committed the robbery with Moj, Golam Ali, Golam Hossain, Deernath Misser, Holas, Oomrao and others. He produced a silver *haslee* as his share of the plunder, which the prosecutor, Bechoo, recognised. By orders of the magistrate, the prisoner was sent with the mohurrir of thannah Purneah, who was directed to search the houses of the parties named in the confession as pointed out by the prisoner. The house of Golam Hossain was searched, but nothing found. He confessed to having committed the dacoity and produced a silver ring from the thatch of his house and five sicca rupees buried in the tobacco

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field attached to his house as part of the plundered property, and implicated Moj, Golam Ali, Oomrao and several others. In the houses of Moj and Golam Ali, sundry trifling articles, which the prosecutor professed to recognize were found, and they were apprehended and sent in to the magistrate. The houses of the other prisoners were searched, but none of the plundered property discovered. Oomrao and Peerun confessed and were sent in to the magistrate, with a request from the mohurrir that after their confession had been taken, they might be again sent to him, as they might prove useful in pointing out where the property was concealed. His request was complied with. The efforts of the thannah mohurrir were, however, ineffectual, the *goindas* were entirely at fault, and as a last resource, at the suggestion of Oomrao, who mentioned that when Moj and Golam Ali had been formerly convicted of theft, the property was not discovered in their house, but buried in their compound, the mohurrir sent for some bildars and directed Chaidy Khan Burkundauz to dig up the ground all round the houses of the accused. The Burkundauz made the bildars dig the earth as deep as the thigh and in a field belonging to Golam Ali to the east of his house, a cloth containing many of the stolen ornaments valued at Rs. 172-6, was found, and these were instantly recognized by the prosecutor. While the mohurrir was engaged making a *sooruthal*, Chaidy Khan proceeded to dig up a garlic field, belonging to Moj, and there found a bag buried about two and half feet deep, containing Rs. 700, besides half and quarter rupees and some ornaments, which latter, the prosecutor recognized. Before the sessions, the prisoners all plead *not guilty*. Golam Ali and Moj, urge that they were in *hajjut* at the time this property was found, and it is most probable that the prosecutor, in collusion with the *goindas*, placed it where it was discovered, in order to ensure their conviction, and avoid being punished for bringing up false charges. Muhungoo and Golam Hossain admit having confessed to the magistrate, but state they were drunk at the time and repeated whatever the *goinda*, Holas Chund, who sat behind them, chose to prompt. The evidence of the witnesses noted in the margin,* prove the fact of the dacoity. They also identify the property and two of them, Mangey and Hussain Buksh, depose to have recognized the prisoners Moj and Golam Ali, while committing the dacoity. This evidence of recognition cannot be admitted, for by their own showing, the witnesses were in a fright, the dacoits were disguised, and when the Dundaha darogah enquired into the crime, these witnesses, though examined, made mention of no names, nor did they tell either the prosecutor or neighbours that they had recognised the robbers. In addition to the witnesses

* No. 1, Mangey.
,, 2, Hussain Buksh.
,, 25, Rahomut Ali.
,, 26, Poorun.

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named in the magistrate's calendar, I have examined the goindas,* and the thannah mohurrir,† noted in the margin. The statement of the Goindas is this. They were employed by the magistrate to trace this and other robberies. In the month of Falgoon last, Sham Lahree ascertained through Etwary, a released convict, that Muhungoo had in conjunction with Moj, Golam Ali, Holas and others, committed this dacoity, and had some part of the property in his possession. Etwary obtained this information from Holas, whose sister is married in Etwary's village and lives near him. Holas used to visit his sister and told him how the dacoity had occurred. On receipt of this information, Sham Lahree and Hoomuk took Muhungoo to Holas Chung, who seems to be the principal goinda, and on being questioned, admitted that he had committed the dacoity in company with Moj, Golam Ali, Holas and others, and produced a *huslee*, which on being shown to the prosecutor's nephew, who was present, was recognized by him as part of the property belonging to Musst. Hasoo. The goindas then took Muhungoo to the magistrate at Doolargunge, who after taking his confession sent him under charge of the goindas to the mohurrir of thannah Purneah, Lyakut Hosain, and directed that officer to search the houses of the parties named in the confession, and to endeavour to trace the robbers and discover the property. Lyakut Hosain apprehended the parties named and searched their houses. Golam Hosain, Oomrao and Peerun confessed and Golam Hosain produced a silver-ring from the thatch of his house and five sicca rupees in a cloth from his tobacco-field, stating that they belonged to the prosecutor and were part of the plundered property, nothing was found on the other prisoners or in their houses, and the police were at a loss how to proceed and the goindas were unable to assist them, when Oomrao and Golam Hosain, who had been sent back to the mohurrir by orders of the magistrate, after their defence had been taken, suggested to the mohurrir the probability of the property being buried in the ground adjoining the houses of Moj and Golam Ali, as on the occasion of a dacoity, which occurred in the house of Musst. Latorun Natin and in the theft of Kashinath Dobey, the said prisoners had, on both occasions, buried the property at a distance from their house. The mohurrir acted on this suggestion and discovered the stolen property as above described. The genuineness of the confessions made by Muhungoo and Golam Hosain before the magistrate cannot, I think, be questioned. The lengthened examination they went through, and the answers they gave, shew that they were at the time in full possession of their senses and the evidence of the attesting witnesses prove that no improper influence was allowed, and that they made

* Holas Chund.
Sham Lahree.
† Lyakut Hosain.

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their confessions of their own free-will. I do not think any doubt can exist as to the participation of Moj and Golam Ali in committing this dacoity. They plead that the property discovered in their fields was collusively hid there by the prosecutor or goindas. It is unlikely that the prosecutor should put it there, and as improbable that the goindas should do so, for had they procured it by improper means, it is much more probable that they would have appropriated it, as the amount was very considerable, and no suspicion attached to them, and it could be no object with them to accuse Golam Ali and Moj in lieu of other parties with whom the property might have been found. It was not to their advantage to collude with other robbers to ensure the conviction of the accused. The large amount of property discovered and the depth below the ground at which it was concealed, and the difficulty with which it was discovered, leave no doubt on my mind that it was buried by the robbers; and the condition of the bag and cloth in which the money and ornaments were contained, show that they must have been under ground for some time. The property could not have been buried where discovered, without the knowledge and connivance of the prisoners, for the one field, when the property must have been buried, contained potatoes, and the other garlic and potatoes, and the accused would undoubtedly have observed that the earth had been turned up and some of the plants injured had a stranger concealed it. The amount of the property buried precludes the idea that it was placed there collusively; and if buried by another robber for purposes of concealment, it is unlikely that he should bury it close to the houses of the accused and in their fields, without their consent, thereby running the risk of losing all. In my opinion, the first and fourth charges are proved against all the prisoners. Of the property sent in by the police officers, the following articles, claimed by the prisoners and by the prosecutor, appear to me to be incapable of recognition, and not satisfactorily proved to belong to the prosecutor, viz. No. 3, a bullock bell, found in Golam Hosain's premises No. 5, a silver *huslee*, found on the person of Moj's wife No. 6, *paunbati* No. 7, a knife, and No. 34, a *sari*, found in Golam Ali's house. These must be restored to the prisoners. The rest of the property will be made over to the prosecutor. I sentence the prisoners, Moj and Golam Ali, who appear to be the Sirdars, and have already been convicted of theft and imprisoned for three years, to imprisonment for ten years each with labor in irons and in banishment from the district, and the prisoners Golam Hosain and Muhungoo to imprisonment with labor in irons for seven years each and in banishment from the district. I further impose a fine of Co.'s Rs. 3000 (three thousand) upon the said prisoners to be levied, in default of payment, by distress

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and sale of their property, and any sum realized on this account after payment of the necessary expenses, to be paid over to the prosecutor's sister, Musst. Hasoo.

The magistrate's attention must be called to the extreme length of the final report sent in by Lyakut Hosain mohurrir of thannah Purneah. It extends over two sheets of paper closely written, and recapitulated in unnecessary detail, all his proceedings and opinions. The magistrate is directed to call the attention of the police officers to the Circular Order of the Nizamut Adawlut of 16th June, 1813.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The only charge susceptible of proof against the prisoners with reference to the evidence adduced, is the receipt of plundered property, knowing it to be such.

Within a week after the dacoity, their houses were searched, some property claimed by the prosecutor was found, the defendants claimed it also, and the name of the prisoner Golam Ali, was found engraved on the *hanslee* produced in the Nagree character.

The darogah on this, released the prisoner. Things remained in this state till the 16th February, when one Mungoo convicted, but who has not appealed, came with Hoolas Chund, Shamlayree, Chumroo and Mungoo to the magistrate, who was on circuit, confessed that they had, in company with the prisoners Nos. 6 and 7, Golam Ali and Moj, committed a dacoity in the house of a female. The prisoners were again apprehended, after the lapse of two months from the date of the dacoity, though their houses had been twice searched; all the property, Nos. 1 to 39, was found buried some three feet under-ground in their potatoe and garlic fields, while the appellants were in jail. The bildars, who dug it up, depose that the spot, where it was buried, was indicated by Chaidy Khan Burkundauz, he again says it was pointed out by Oomrao, released defendant. The several police officers, who carried on the investigation at different times, were not present at the production of the property, which, without being shewn to the witnesses, was carried off to the house, where Lyakut Hosain, the mohurrir of the sudder thannah, was living. The magistrate, seeing the irregularities in the search and the want of care shewn in the measures taken to establish the identity of the property produced, called upon him for an explanation, which however does not appear to have elicited any thing satisfactory.

There can be little reason to doubt that the real offenders have escaped at the expence of those convicts, who have appealed, against whom there is no such evidence as would justify conviction. We therefore order their immediate acquittal and release.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT, GUDADHUR AND OTHERS

versus

GOPAL ROY (No. 2,) HARADHUN ROY (No. 3,) KALLYCHURN ROY (No. 4,) BHOYRUB ROY (No. 5.)

West-Burdwan.

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The proof being conclusive against the prisoners, their appeal was rejected.

CRIME CHARGED.—1st count, dacoity in the house of Gudadhur Roy, on the night of 24th March, 1855, or 12th Chyte, 1261, in which property of the said Gudadhur Roy, valued at Rs. 42-6, Koochil Roy, rupees 48-5, Peetumber Chowdry, rupees 2, Nuddearchand Sircar, rupees 3-6. and the late deceased Meer Nuzib peon 7 annas, was plundered, and in which witness Thako Chuckerbutty was wounded; 2nd count, receiving knowingly plundered property obtained by the above stated dacoity.

CRIME ESTABLISHED.--Dacoity in the house of Gudadhur Roy, in which property of the said Gudadhur Roy, valued at Rs. 42-6, Koochil Roy, Rs. 18-5, Pitumber Chowdry, Rs. 2, Nuddearchand Sircar, Rs. 3-6, and the late deceased Meer Nuzib peon 7 annas, was plundered, and in which witness Thako Chuckerbutty, was wounded.

Committing Officer.- Moulvee Gholam Ushruff, deputy magistrate of Boodbood, West-Burdwan.

Tried before Mr. Pierce Taylor, sessions judge of West-Burdwan, on the 31st July, 1855.

Remarks by the sessions judge.—The terms of the court's decision in this case drawn up under Act XXXIII. of 1854, were as follows:

Prisoners tried under Act XXIV. of 1843.

This daring dacoity was committed in the town of Sonamookhy, on a moon-light night, close to the house of Mr. Erskine, and about one *pow*, or quarter of a *coss*, from the thannah. The prosecutors and other inmates of the house of No. 1, were so frightened, that only one of them dared to attempt outcry, who was immediately silenced by the robbers. Such is the apathy or cowardice, of the people of this part of the country that, although the witness Thako Chuckerbutty No. 21, came up, on seeing the light of the *mussals*, and was driven away with a few blows of no great violence, he never thought of rousing the neighbours, for the purpose of beating off or capturing the dacoits, nor of letting the thannah-police know what was going on. By the time the darogah received information from the prosecutor Koochil No. 2, the robbers had got clear off. There can be no doubt of the actuality of

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the occurrence, for the prosecutors are all respectable persons. No. 1, is a collectorate *frash ameen,* No. 2, is his cousin and gomashtah, and Baboo Radhabulhub Singh, No. 3, is a youth who reads and writes with, or for, No. 1; and No. 4, is a boy related to No. 3. They had no apparent motive for alleging that a dacoity had occurred, if such was not the case, and though, certain public papers of the *frash ameen* were carried off, they were not of such importance as to lead to a presumption of the case having been got up, to hide any thing. The property stolen, great part of which consisted of clothing, is valued at Rs. 96-8. The darogah investigated for some days without effect, and afterwards went to enquire into another dacoity, which had taken place in the house of one Nubbodeep Pal, in the village of Bandurkoondah, about two *coss* from Sonamookhy. In the course of his proceedings in that case, on 16th Cheyt or 28th March, he approached the villages of Sirsa, Sihara, and Gossamgram, which adjoined each other, when the prisoner Gopal Raie No. 2, and other Khyrahs who inhabited it, seeing him coming, fled. The prisoner named was seized by the burkundaz Saadut, witness No 1, and brought to the darogah, after which witness No. 24, Kistodoss chowkeedar, having said that he suspected the Khyrahs aforesaid of having committed the dacoity in the house of Nubbodeep Pal, search was made on the 29th March, in the vicinity of their habitations. In the jungle near the houses of the Khyrahs were first found a coarse *ghilap,* or sheet, a red edged *dhootee* five *haths* long, (both not connected with this case) and a coarse *pullah,* or wrapper, *with its edges newly unpicked* (No. 4). Shortly afterwards the ghutwals and others came and said, that a *dhootee* nine *haths* long (No. 1,) and a *chudder* (No. 2,) were visible in the pit of a sugar-cane press; about a *russee* to the south of the hut of the prisoner Gopal Raie, No. 2; and the darogah thereupon went and took them up. After this, on the 30th of March, the darogah searched the house of the prisoner No. 2's concubine Musst. Turree, in her absence, but in the said prisoner's presence, when a matchlock, certain brass utensils, and a piece of *nyansookh* cloth, *with its edges newly unripped,* were discovered. On being questioned, by the darogah and witness No. 15, Modhoosoodun Sirdar, about this article, the prisoner declared that he had purchased it, and that it had had another similar piece attached to it, which he had given to his child who had destroyed or lost it. As, on comparing the above articles of clothing (Nos. 4, 1, 2 and 3,) with the list furnished by the prosecutor No. 1, in this case, it appeared that they were like some of the same description, noted therein, the said individual was sent for and after identifying Nos. 1 and 2, as his property, but not apparently the others, on that occasion, returned home. The prisoner No. 2, with the above property and also Nos. 5 and 6,

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found in a hole near the houses of Kishen Roy and other Khyrahs, having been *chalaned* to the deputy magistrate by the darogah, he sent his Meer-moonshee, Bissoroop Hajrah, with Koochil Roy prosecutor No. 2, to take up the investigation of this case. Before his departure, i. e. on the 2d April, or 21st Cheyt, the prisoner No. 2, Gopal Roy, confessed to him at the Sonamookhy thannah, in the presence of witnesses Nos. 6 and 7 mentioned under the proper head in the calendar, and named the prisoners Nos, 3 and 4, and also one Rajib Roy (subsequently released by the deputy magistrate). On the arrival of the Meer-moonshee at Sirsa and Sihara, the said Rajib Roy was apprehended and confessed, naming prisoner No. 5, Bhoyrub Roy; Nos. 3, 4 and 5, were then seized, through the instrumentality of the burkundazes Saadut Khan and Ramjee Panre, witnesses Nos. 1 and 2, and after voluntarily confessing in the presence of the witnesses Nos. 8, 9, 10 and 11, named in the calendar, pointed out and gave up, with their own hands, all the rest of the property recovered in this case, consisting of various articles of clothing and a brass *kutora*, from various places in the jungle.

All the articles recovered have been sufficiently identified by three of the prosecutors (the fourth was not examined by this court because he did not appear to be more than ten years of age, and did not understand the meaning of solemn declaration) and also by the witnesses named under the proper head in the calendar. On comparing the bit of *nyansookh* No. 3, found in the house of the woman Turree, where the prisoner No. 2, Gopal Roy also lived, with the *pullah* No. 4, found outside it in the jungle, it is clear that the former must have been sewn to the latter on three sides, as it exactly fitted it, and that the lost piece must have been hidden some where else, by the prisoner, with a view to deceiving the police. There can be no rational doubt of Nos. 3 and 4, being the property of the prosecutor Peetumber Chowdhree No. 3, because Musst. Pearee Dhobanee, witness No. 20, has deposed that she placed marks on the former, when at wash, which are distinctly apparent thereon. There can also be no doubt that the new *dhotee* No. 1, was actually found with Nos. 4, and 2, near the house of the prisoner No. 2, as described, because it was noted, with its exact length, in the list given by prosecutor No. 1, for himself and all the others, on the 13th Cheyt, before the darogah went to Bandurkondah; besides which it bears his name in faint ink, a fact not apparently discovered by either the darogah or the deputy magistrate.

The prisoner No. 2, Gopal Roy, repudiated his mofussil confession, before the deputy magistrate, and defended himself by saying that he had been forced to give it by violence. He also made the same allegation about the cloth No. 3, which he had advanced when it was found. His defence before the

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sessions court is to the same effect, but the evidence of his witnesses does not support it.

The other prisoners also pleaded *not guilty*, and their defence is *alibi*, which is not borne out by the witnesses whom they have adduced.

On due weighment of all that has been stated, the court is of opinion, that all four prisoners are equally guilty of the crime charged, and therefore, convicting them, sentence each of them to ten years' imprisonment, with labor in irons for the offence, and two more years, also with labor in irons, in lieu of corporal punishment, in all twelve years each, with labor in irons, to be undergone in banishment.

The court also orders, that the usual warrant of imprisonment be issued immediately, and that the joint-magistrate be directed in a separate proceeding, to give up the whole of the recovered property to the several prosecutors, and the heirs of Nujeeb Khan deceased, and to confiscate the matchlock found in the house of the prisoner No. 2.

As the court observes that no order appears to have been passed by the deputy magistrate, in regard to the other property found in the house of the said prisoner, when searched, a separate proceeding will be addressed to him, in reminder thereof.

The record will be returned to the deputy magistrate, as soon as the period of appeal shall have expired. It appears from the evidence of the two *ghutwals*, that proper notice has been taken of their neglect by the police authorities.

I described this case at length, because it was likely to be appealed, and the proceedings of the police and deputy magistrate were very confused.

Remarks by the Nizamut Adawlut.—(Present: Sir R Barlow, Bart., and Mr. B J. Colvin) The prisoners have all appealed, and plead *not guilty;* several witnesses were cited by them, but they, with one exception, have said nothing in their favor

Suroop Roy, for the prisoner, No. 2, deposed that he was severely beaten by the police, but of this he said nothing before the deputy magistrate.

The sessions judge has very fully stated the grounds of his conviction. We concur with him, and confirm his sentence upon the prisoners severally.

PRESENT:

SIR R. BARLOW, BART., AND B J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND HURKOO AHEER

versus

DULGUNJUN RAI CALLING HIMSELF DULLOO RAI.

Shahabad.

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Case of DULGUNJUN RAI calling himself DULLOO RAI.

The Nizamut Adawlut concurred with the sessions judge in acquitting the prisoner, as his identity was not established.

CRIME CHARGED.—Riot attended with culpable homicide of Monohur Aheer, and wounding Hurkoo Aheer.

Committing Officer.—Mr. F. B. Drummond, magistrate of Shahabad.

Tried before Mr. R. J. Loughnan, officiating sessions judge of Shahabad, on the 10th September, 1855.

Remarks by the officiating sessions judge.—I dissent from the finding of the law officer in this case, not being satisfied, by the testimony of the witnesses, that the prisoner is the person who was accused of being an accomplice in the riot, on occasion of the first investigation of the police and on the trial of the prisoners who were first committed in the absence of the present prisoner at the sessions of 12th July, 1853.

Hurkoo Aheer, the prosecutor, and Bunsee Aheer, one of the eye-witnesses before examined, are the only two who have identified him, while Keshu Rai, Muharaj Rai and Soburun Dosadh deposed that the prisoner is not Dulgunjun Rai, whom they saw taking part in the riot, but his younger brother Dulloo, whom they did not see in it. This is the statement also of the witnesses cited by the prisoner, and it is corroborated by the prisoner's apparent youth. He calls himself fourteen years' of age and does not look more than sixteen. Had he been but fourteen years of age at the time of the occurrence of the riot, he would naturally have been spoken of by the prosecutor and witnesses as a lad, but he was not so described.

I do not think the commitment made on insufficient grounds, as besides Bunsee Aheer and another witness named Sonsar, who corroborated his testimony, but was not examined in this court, none others on the side of the prosecutor were examined by the magistrate.

Remarks by the Nizamut Adawlut.—(Present : Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The sessions judge does not consider the identity of the prisoner as a party to the assault attended with homicide established. The prisoner calls himself Dulloo; three witnesses for the prosecution well acquainted with him also recognize him by that name, adding that Dilgunjun, the prisoner's eldest brother, who has absconded, was the party to whom they swore on the former trial. We concur with the sessions judge and acquit the prisoner.

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The magistrate should have examined all the witnesses for the prosecution; he took the depositions of two only, whose statements are not supported by those who follow them in the calendar. See last Clause, Section 2, of Regulation VIII. 1830.

The Court further observe that the magistrate has omitted to record the grounds of his commitment and satisfied himself with a reference to former proceedings.

The prisoner will be immediately released.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND GUNESH KOIREE

versus

MISREE JOLAHA.

Sarun

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Case of MISREE JOLAHA.

The prisoner was not sentenced capitally, as there was no positive proof of death having occurred.

CRIME CHARGED.—1st count, theft attended with the murder of Deokeenundun Chokrah for the sake of his ornaments, valued at Co.'s Rs. 13-8-0; 2nd count, having in his possession the said ornaments, knowing them to have been obtained by theft.

Committing Officer.—Mr. W. F. McDonell, officiating magistrate of Sarun.

Tried before Mr. H. Atherton, sessions judge of Sarun, on the 8th October. 1855

Remarks by the sessions judge.—This case has been tried with the assistance of a jury and the following particulars have been elicited. On the evening of the 26th August last, Chukun* witness No. 11, father of Gunesh, the prosecutor, left his grandson Deokeenundun sitting at the door of his house with the prisoner and went to look at his field; just after his return Gunesh arrived and inquiring for the *hookha* for his father was told the child had taken it; not finding the boy, Chukun told Gunesh that he had left him with the prisoner, in search of whom Gunesh at once proceeded. He soon met with the prisoner near the river Dewa, coming from the direction of it and returned home with him. When asked where the child was the prisoner said he had left him at home and then, observing that he might be in a field of Indian-corn at hand, went to look for him there. He returned saying the child was not there and was detained by Gunesh, people assembled and were presently joined by Ishurree witness No. 8, a very intelligent man though unable to sign his name. Ishurree

* No. 11, Chukun.

No. 8, Ishurree.

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asked the prisoner what had become of the child, and the prisoner then said, Come aside, and I'll tell you. Going to a well close by with Ishurree and two others, witnesses Nos. 9 and 10, the prisoner confessed that he had killed the boy and thrown him into the river, and in proof said, he could give up the ornaments, which he accordingly immediately produced from the field of Indian-corn to which he had gone under pretence of searching for the child, vide evidence as per margin. The prisoner was immediately taken to the thannah close to the place where the murder was committed, and it was soon discovered that he had on the evening of the 26th been seen going with the child *in the direction of the river* not far from the prosecutor's home, vide evidence as per margin. Before the darogah the prisoner confessed to a participation in the murder, vide evidence of witnesses Nos. 1, 2 and 3, and named one Manick, against whom nothing appeared, as his accomplice. The prisoner has since denied the charge, saying that Manick gave him the ornaments in the presence of certain witnesses to whom they were shown, and who in my court state that they saw the prisoner with Manick, though their evidence does not confirm the prisoner's account which in its detail is altogether improbable. The jury convict the prisoner as charged in the 1st count, and I think the finding a just one. There is not in this case the least reason to doubt the truth of the evidence adduced for the prosecution, nothing that can lead to the belief that the confession at the thannah was improperly obtained. Manick was never seen with the prisoner or the child, and at first his name was not mentioned by the prisoner, I doubt not it afterwards occurred to the prisoner to name Manick to save himself, and that the prisoner when met by Gunesh near the river and coming *from it* had the child's ornaments with him, and that he took the opportunity of hiding them in the field of Indian-corn when he went there on pretence of looking for the child. The body of the child has not been found, and was not likely to be found from the strength of the current at this season of the year, but there can be no doubt of the murder having been committed, I recommend that the prisoner be transported for life.

No. 9 Lalsah.
10, Thuggoo.

No 4, Ramsurun.
5, Luchmun.
8, Ishurree.
9 Lalsah.
10, Thuggoo.

No. 4, Ramsurun.
" 5, Luchmun.
" 6, Brya.
Musst. Imirtee.

1, Chundee Mundul.
2, Moolchand.
3, Shiogopal.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The prisoner before the police stated that one Manick gave him the ornaments which the deceased child had worn, after he had pushed him in the river.

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Before this, it appears from the evidence of three witnesses, the prisoner confessed to them, that *he* himself had pushed the boy into the water and taken his ornaments, which he buried and pointed out without making any allusion to Manick. The witnesses to the mofussil confession, before the police, depose that the prisoner confessed that *he* had thrown the child into the river, whereas he implicated Manick and only admitted that he buried the ornaments the child had worn.

The confession and admissions made by the prisoner are somewhat conflicting, but coupled with the evidence on the record, there is proof that the prisoner went away with the child, who is not forthcoming, while the ornaments he wore at the time are produced by the prisoner and recognised by several persons

There is a strong presumption that the child has been made away with and that the prisoner is the guilty party, the prisoner does not confess, however, to *having killed the deceased* and no dead body has been found. In the absence of any positive proof that death has occurred, as recommended by the sessions judge, and in accordance with the practice of the court, we convict the prisoner on violent presumption of the murder and sentence him to transportation for life.

PRESENT:

SIR R. BARLOW, BART, AND B. J COLVIN, ESQ., *Judges.*

GOVERNMENT AND SREEMUTTA JHAREE

versus

PUNAOOLLAH (No 19,) MADHUB PALL (No. 23,) NUNDO SINGH (No 24,) NEEMOO SINGH (No. 25,) SUHODEB BENIA (No. 26,) SAMLALL SINGH (No. 27,) HURROO SINGH (No 28,) ANUND MONAH (No. 29,) RAJOO BHOOYA (No. 30)

Midnapore.

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Case of PUNAOOLLAH and others.

Three of the prisoners were acquitted, the evidence against them being unsatisfactory. The appeals of the others were rejected.

CRIME CHARGED.– Riot with murder, in having in a riot and dispute between Soorjomonee (prisoner No. 20,) and Doorgamonee respecting some brick-dust, wilfully so wounded the husband of Musst Jharee, Gungaram Singh, with a stick that he died from the effect of the said wounds in the jail hospital; 2nd count, being accessaries to the above crime before the fact.

CRIME ESTABLISHED.—No. 19, being principal in the riot attended with culpable homicide and Nos. 23, 24, 25, 26, 27, 28, 29, and 30, aiding and abetting therein.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

1855. November 27. Case of PUNAOOLLAH and others.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 25th August, 1855.

Remarks by the sessions judge.—The prisoners are charged with riot attended with murder. They plead *not guilty*. It appears from the evidence that some servants of Doorgamonee, were employed in removing *soorkee*, which was lying close to the house of Soorjomonee, when the servants of the latter (the prisoner) interfered and desired them to desist, an altercation ensued, which ended by the prisoner attacking the deceased Gungaram Singh, Doorgamonee's *peadah* The prisoner, Punaoollah, struck him two blows on the head with a bamboo *lattee*, one of which fractured the skull, from the effects of which he died shortly after. The medical officer, whose presence was not secured in this court as he had proceeded to join another station, stated, in his evidence before the magistrate, that the death of "Gungaram Singh" was caused by a compound fracture of the skull produced by a blow of some blunt weapon. The prisoners in their defence plead an *alibi*, and that the death of Gungaram Singh was the result of a drunken quarrel between him and Ramchaud Bowree another servant of the said Doorgamonee. The assessors, with whose assistance the trial was held, declare prisoners guilty. The prisoner No. 19, Punaoollah, as principal in the riot and assault which caused Gungaram Singh's death and the other prisoners Nos. 23, 24, 25, 26, 27, 28, 29 and 30, as aiders and abettors therein. I concur in this finding. The witnesses for the prosecution are not *altogether* trustworthy. The evidence of the witness Munohur Khan Burkundaz, and others, is biassed and given probably under the instigation and dictation of Soorjomonee's opponents, Doorgamonee and Jankeemonee, or their dependants, their object being to implicate Soorjomonee and her foster son, Behareelall (prisoner No. 22,) as *particeps criminis*, in order that the former may have the entire control of their deceased husband's property. Apart, however, from the suspicion which attaches itself to a portion of the evidence for the prosecution, I think there is abundant proof, circumstantial and direct, that prisoners mentioned in the margin,* were concerned in a riot and assault in which Gungaram Singh received his death-blow, and I accordingly convict Punaoollah as a principal therein, attended with homicide, and the other prisoners, above mentioned as aiders and abettors, and sentence them as follows.

* No. 19, Punaoollah.
,, 23, Maddhub Pall.
,, 24, Nundo Singh.
,, 25, Neemoo Singh.
,, 26, Suhodeb Bamah.
,, 27, Samlall Singh.
,, 28, Huro Singh
,, 29, Anund Monah.
,, 30, Rajoo Bhooya.

Sentence passed by the lower court.—No. 19, to five years' imprisonment with labor, and Nos. 23, 24, 25, 26, 27, 28, 29 and 30, to three years' imprisonment without irons, and to pay a

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Case of PUNAOOLLAH and others.

fine of 20 Rs. each within one month, or in default to labor until the fine be paid or the term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The prisoners have all appealed. In their defence they plead that they were not on the spot at the time that Gungaram Singh was killed, but several witnesses, to whom they are well known, have sworn to the presence of Nos. 19, 23, 24, 25, 27, and 30, with sticks, which they were wielding with menacing gestures while the prisoners Nos. 19 and 23, are clearly proved to have taken the lead in the affray and Gungaram, was struck down by No. 19. The evidence against Nos. 26 and 29, is not so clear, and in the case of No. 28, he is at one time called, Harroo Khela, at another Harrolall, and Harro Singh in the calendar, and was never pointed out by the witnesses as the person they recognised in the affray.

We see no reason to interfere with the sentence passed by the sessions judge upon prisoners Nos. 19, 23, 24, 25, 27 and 30 For the reasons above assigned, the prisoners Nos. 26, 28 and 29, are acquitted and must be released. We observe that the sessions judge has omitted to fill up the prescribed column in the comparative statement, which indicates the witnesses said to have recognised the prisoners in the sessions court.

PRESENT:

A. DICK, ESQ., SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT

versus

24-Pergunnahs.

CHUMROO CHOOREEWALLA.

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Case of CHUMROO CHOOREEWALLA.

CRIME CHARGED.—1st count, wilful murder of Nuzeerun, a child, aged about seven years; 2nd count, wounding Musst. Koodruthun with intent to murder her.

Committing Officer.—Mr. H. D. H. Fergusson, magistrate of 24-Pergunnahs.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 4th August, 1855.

The prisoner in this case, of whose guilt there was not the slightest doubt, was sentenced capitally.

Remarks by the additional sessions judge.—The prisoner was married a short time ago to the chief witness Koodruthun, and he was step father to the murdered child, Nuzeerun. He was an habitual drunkard and lived in no amicable terms with his newly married wife. The cause of their disputes would seem to be that the prisoner had taken some money from his wife to get her some jewels made, but he spent the money on himself. This act of dishonesty on his part was the frequent subject of

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Case of CHUMROO CHOOREE-WALLA.

high words between him and his wife, and the evening before the murder, viz., on the 22nd July, it led to a quarrel, in which the prisoner beat his wife so severely, that she ran away from him. He went and brought her back, and then paid a visit to a grog-shop, where he got drunk. He probably drank in the night, for there is no doubt that he was in a state of intoxication when he committed the murder very early in the morning of the 23d July. He slept in the room with his wife and step-daughter, and rising at about gun-fire, he ordered his wife to prepare a *chillum*, while he went to the next room, inhabited by his landlord, to get fire. As soon as he returned to his room and without saying a word to his wife, he took from the matted side of his house, a small knife, and sitting upon his wife's *charpoy*, he dug the weapon deep into her neck, her face, and chest. His step-child seeing what the prisoner was doing, ran out into the *verandah*, and began to scream. Leaving the mother, the prisoner rushed into the *verandah*, laid hold of the child, cut her throat, and throwing her down a corpse on the ground, he hastened off, pursued by witnesses Nos. 2, 3, and 4, who were eye-witnesses to the latter portion of this horrible scene The prisoner warned his pursuers to keep at a distance, saying he would be his own accuser to the police, and true to his word, he gave himself up to the burkundaz on watch at the Chitpore thannah, telling the man to do his duty, and bind the murderer. In verification of his own accúsation, he was covered with blood, but the knife was not in his hand.

The prisoner, who, as already observed, is said to have been in liquor at the time of his voluntary arrest, admitted the deed when he was in that state, but denied it altogether when he got sober.

Before the magistrate he said, he was drunk and did not know how the murder happened.

His defence at his trial before my court is, that he was roused early in the morning with cries of murder, and seeing his step child a corpse in the *verandah*, he went to the thannah and gave information of it. He stoutly denies that he did the deed.

The law officer finds that the prisoner committed the murder and declares him liable to "*kissas*."

There can of course be no doubt that the prisoner was the murderer. The only question on which any difficulty rests is as to the sentence. He was undoubtedly quite intoxicated at the time. The murder of the child is an act for which there is no ascribable motive. Certainly there is no appearance of prisoner's malice in the act, and he committed it under the excitement of the moment. Under these circumstances, therefore, I would convict the prisoner of the wilful murder of Nuzeerun, and sentence him to transportation for life.

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Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. B. J. Colvin.)

Mr. A. Dick.—The prisoner in this case was drunk over night and quarrelled with his wife Both afterwards went to sleep in the same apartment, though at a short distance. Towards morn, the prisoner (as stated by the wife,) told her to get up and prepare a *chillum* for him: she would not. He then went out, and on returning attacked her with a knife. The child, the daughter, seeing this, ran out, and began crying aloud. The prisoner then left the mother and seizing the child, cut her throat, and ran off to the thannah giving himself up, and declaring himself a murderer, and desiring the police to bind him. It is in proof that he was intoxicated, and that there was a bottle of spirits in the room: he must therefore have been drinking during the night, or he would have slept off the intoxication of the night before. The refusal to get up to prepare his *chillum* was no adequate cause for the attack on the wife, and to use the words of the precedent of 8th February, 1827, P 8, vol. III, Nizamut reports, Gunga Aheer's case, "In this case no previous enmity or malice is shown; and it is clear that the prisoner, when sober, would not have murdered" his daughter-in-law, a child of eight years of age. I would therefore in the precedent above cited and in concurrence with the sessions judge, convict the prisoner of murder, and sentence him to transportation for life.

Mr. B J. Colvin.—There can be no doubt of the prisoner's guilt; but I do not concur in the recommendation of the additional sessions judge that he should only be transported for life. Both law officers (mofussil and sudder) have given a *futwa* of *kissas*, and the Mahomedan law, which we have to follow, does not admit a plea of intoxication to bar a capital sentence. There are cases reported,* in which that plea has been allowed to bar such a sentence from consideration of extenuating circumstances; but in this case I can discern none. The prisoner not only attempted to kill his wife, who had refused to prepare a light for him, but pursued the child, who had rushed out to give the alarm, and took away her life, it can only be supposed, to prevent her. I would sentence the prisoner to death.

* See Index to Nizamut Adawlut reports, vol. 5, head "intoxication."

Sir R. Barlow.—The prisoner and his wife, witness No. 1, appear to have been on bad terms in consequence of his squandering her money in drink. The night before the murder he had been quarrelling with her and also drinking, and on his return home beat her, about 10 o'clock at night he went to sleep At day-light he got up and asked his wife for some fire for a *chillum;* and on her not complying with his request, he stabbed her three times with a knife; her child about eight or

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nine years of age, seeing this, ran out, exclaiming her mother was being murdered; upon which the prisoner seized the child and cut its throat. Whatever may have been the prisoner's state over-night, he must be held responsible for his acts on the following morning The attack on the child was most unwarrantable and without any provocation. The prisoner in the mofussil admitted he killed the child; before the magistrate, and in the sessions court he denied all knowledge of the crime, saying he knew not by whom it was committed. It is clearly proved however that the murder was committed by him. Some of the witnesses state he had been drinking over-night, but there is no evidence to establish that he was overcome with drink even then.

I see nothing in the record which would justify mitigation of punishment. I therefore concur with Mr. Colvin in passing sentence of death upon the prisoner Chumroo.*

PRESENT:

A. DICK, ESQ., SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND BHAGBUT MUNDUL

versus

ADAWLUT SHEIKH.

Moorsheda-bad.

1855.

November 28.

Case of ADAWLUT SHEIKH.

The prisoner was convicted on clear circumstantial evidence. He failed to produce any trustworthy evidence, in his defence; sentenced capitally.

CRIME CHARGED.—1st count, wilful murder of Koylash Chokra; 2nd count, having stolen from the person of the deceased ornaments to the value of 10 Rs.; 3rd count, knowingly receiving and possessing a part of the above stolen property, viz., one *hansoolee* valued at Rs. 4-14.

Committing Officer.—Pundit Muddunmohun Tarkolunkar, exercising powers of magistrate at Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 29th August, 1855.

Remarks by the sessions judge.—The prisoner pleaded *not guilty.*

This is one of those cases in which, though there is no eye-witness, there can be no doubt of the murder.

Koylash Chokra the murdered boy, about nine years old, was the son of the prosecutor.

The prisoner had been employed occasionally by the prosecutor as a *teeka* servant.

On the evening of the 27th June, about 5 P. M. the little boy was playing with other children,* when seeing the prisoner he asked him if he was going to fish. The prisoner said he should

* Witnesses Nos. 10 and 11.

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go after he had smoked. The boy brought him some tobacco, and when the prisoner had smoked, he took his clothes under his arm and followed the prisoner towards the river. He had a silver *hansoolee* (necklace) and silver bracelets on at the time.

On their way, it would appear that the prisoner saw Alladee Sheikh,* witness No. 12, cutting grass. He went up to him and asked him for his *hunswah*, but Alladee Sheikh did not give it to him as he wanted to cut some more grass. The little boy called to the prisoner and the prisoner beckoning to him proceeded on his way, the boy following.

They were next seen by Korran Sheikh,† witness No. 13. He passed close to him. He observed that they were eating some *nuttee* or sweet reeds. They were going towards the spot where the boy's body was found the next day. He observed that the boy had a silver necklace on and silver bracelets.

The boy was never seen alive again.

A search was made for him in vain when he was found to be missing. The chowkeedar of the village,‡ witness No. 1, went to look for the prisoner but could not find him at his house that night.

The body of the boy was found the next day by his father, the prosecutor.§ The ornaments which the boy wore, were not on the body. The neck and mouth were tightly bound by the boy's own clothes, the tongue was protruding from the mouth, from which as well as the nostrils blood had trickled, and the eyes had started from their sockets.

The prisoner was soon after apprehended by Meghoo Sheikh chowkeedar witness No. 1.

The darogah reached the village the same evening, and the next day, after holding an inquest on the body, proceeded to search the prisoner's house in presence of the prisoner and many of the villagers.‖

On searching the house underneath a newly made mud wall, and hidden by it, was found the silver *hansoolee* or necklace, belonging to the deceased.

The prisoner has all along denied that he committed the murder. He denied that the deceased accompanied him on the evening, when the murder must have been committed, and stated in his defence, that the prosecutor and the police must have placed the *hansoolee* where it was found, and that they and the villagers were at enmity with him, because his fields were near the road-side, and he was in the habit of confining their cattle whenever they strayed upon them.

* Witness No. 12.

† Witness No. 13.

‡ Witnesses Nos. 1 and 4.

§ Witnesses Nos. 1, 2, 3 4 and 5.

‖ Witnesses Nos. 1, 2, 3, 4 5, and 8.

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The *hansoolee* was identified as belonging to the deceased. Amongst the witnesses to the identification was the silversmith who made it * Witness No. 9.

* Witnesses Nos. 2, 3, 4, 5, 9, and 10.

The evidence of the officiating civil sergeon, Dr Saunders, established the fact that the cause of death was asphyxia, produced most probably by strangulation

Witnesses were called for the defence, but none of them knew of any enmity existing between the prisoner and the prosecutor or witnesses for the prosecution.

The jury convicted the prisoner of murder on violent presumption.

After most carefully weighing the whole evidence, I can come to no other conclusion than that the prisoner murdered the boy for the sake of his ornaments.

The evidence, with the exception of the finding of the body strangled, and the finding of the ornament concealed, is circumstantial, but so circumstantial as to amount to the most violent presumption of the guilt of the prisoner.

He may not have thought of committing the murder before. It is in evidence that he was kind to the boy and that the boy was fond of him, and when they went out together on the fatal evening it was at the boy's solicitation

The idea may have flashed across him suddenly during the walk. But it is to be feared, from the evidence, that he did not put it away.

His going up to Alladee Sheikh and asking him for his *hunswah*, raises a suspicion, that the thought was indulged and that he wanted the instrument to carry out a fatal purpose.

Be this as it may, the manner in which the deceased met with his death, if the prisoner was the murderer, is evidence against him of a cruel and merciless determination to take life, and it matters not, as far as his guilt is concerned, whether that determination was made a few minutes sooner or later, and that he and no other committed the act, the fact of the deceased being last seen in his company, the strangled victim with the sweet grass by his side, which they had both been eating, the prisoner's absence until his apprehension, and the necklace, which the boy wore, found carefully concealed in the prisoner's house, are connecting links in the chain of evidence sufficient for his conviction.

The case must be sent to the Nizamut Adawlut. Concurring with the jury, and not seeing any extenuating circumstances in favor of the prisoner, I would recommend that he be sentenced to suffer death.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow and Mr. B. J. Colvin.)

Mr. A. Dick.—There is evidence that the prisoner was seen

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by two witnesses going towards the river, about six *dunds* or three hours of the day remaining, with the deceased who had on a silver *hunslee*, or neck-ornament, and two silver bracelets. He was afterwards seen with the deceased boy near the spot where the body was found, and the *hunslee* was found buried in a mound of earth close to a new house which prisoner was constructing. There are strong circumstantial facts amounting to violent presumptive evidence of the prisoner's guilt; on the other hand, there is no eye-witness to the murder. The prisoner has denied from the first, and at once declared that the *hunslee* was found concealed outside his house where any one might have placed it, and it is extraordinary, that if prisoner placed it there, he did not place the bracelets with it This is a remarkable fact. I would convict the prisoner on violent presumption of the murder and sentence him to transportation for life.

Mr. B. J. Colvin.—I do not think that a capital sentence can be remitted in this case.

The prisoner is convicted, it is true, only on circumstantial evidence, but it is of the very strongest kind and leaves no doubt of his guilt. The sessions judge has so fully detailed the evidence that it is unnecessary to recapitulate it here. The prisoner has denied throughout, not only the murder, but in the foujdary that he had seen the deceased on the day of his death, whereas it was from their having gone together, that he was first suspected.

I would, therefore, in concurrence with the sessions judge, sentence the prisoner Adawlut Sheikh, to suffer death agreeably to the precedent cited in the margin,* in which case the prisoner was sentenced capitally upon strong and convincing circumstantial evidence.

* Government *versus* Mudai. Page 671, Vol I. Nizamut Reports for 1852, 30th April.

Sir R. Barlow, Bart.—The prisoner has throughout pleaded *not guilty*, but has been convicted by the sessions judge and jury in the mofussil as well as by the two judges, who have already taken up the trial, of the murder with which he is charged.

There can be no doubt in my judgment of the prisoner's guilt. It is fully proved that he went with the child and was seen with him near the indigo-field in which the corpse was found wrapped up in a cloth, to all appearance the child had been strangled and one of the ornaments, which he had worn and had been stripped off, was subsequently, the next morning, found buried in the mud wall of the prisoner's house.

The defence is a bare denial of the charge and enmity with the villagers; the witnesses cited by the prisoner say they know nothing of this plea. The deceased was seen last in the prisoner's company going in the direction of the field where the

body was found, and was also seen by the witness Allahooddeen, from whom he requested the loan of his sickle. How far the suppositions of the sessions judge in para. 23, of his letter of reference, is correct, it is difficult to say, but the circumstances of the case are so strong against the prisoner that he has been convicted by the several authorities before whom he has appeared.

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Case of ADAWLUT SHEIKH.

I see no reason to doubt the evidence adduced and concur in passing capital sentence upon the prisoner.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND LUCHMUN TEWAREE

versus

HURNATH ALIAS HURSUHOY.

Patna.

1855.

November 29.

Case of HURNATH *alias* HURSUHOY.

The proof of the prisoner's identity was held to be sufficient.

CRIME CHARGED.—Wilful murder of Gungasuhoy Tewaree.

Committing Officer.—Mr W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 30th October, 1855

Remarks by the officiating sessions judge.—Luchmun Tewaree, the prosecutor, who is a pensioned *sepoy* and a brahmun, considered that he had been injured by one Ramnath, a brahmun, by a boundary made by the latter between their respective opium grounds, and he destroyed the boundary-mark or ridge. On this, they had a violent quarrel, abuse was mutually given, and Ramnath proceeded to acts of violence by summoning to his aid his friends and relatives, Sheonath, Rugbeer, and Hurnath (the prisoner in this case.) Ramnath himself was armed with a club, as were Rugbeer and Hurnath, but Sheonath brought a battle-axe or "*gurhassa.*" The prosecutor was attacked and fled, but his younger brother, Gungasuhoy, who backed him up, remained, and was set upon, terribly beaten and eventually killed. All this occurred on the evening of the 3rd November, 1851. Ramnath, Sheonath, and Rugbeer, were at once apprehended tried and convicted of aggravated culpable homicide, the Sudder Court, on the 2nd February, 1852, sentencing them to fourteen and ten years' imprisonment in banishment respectively.

The prisoner Hurnath, has eluded capture until now. His defence is, that he is not Hurnath, the son of Rugbeer, but Hursuhoy son of Modun Singh (Rugbeer's brother,) that he has never been absent from his village, (Pursah,) and that he has now been apprehended from some spite, on account of what he

1855. November 29. Case of HURNATH alias HURSUHOY.

does not know. On being pressed to say, he says, the prosecutor has lately been asking him for some of his land.

Of the eye-witnesses to the prosecution, who have been examined in this case, five were in the list of the eye-witnesses in the original case, before the sessions judge, but were not examined by him. Three now examined were examined before both by the magistrate and sessions judge, of the seven now examined, No 3, Phoolman, No. 1, Ramphul, No. 2, and Dooleah Tewarree, No. 4, are related to prosecutor and I will not rely upon their evidence. The rest, witnesses Nos. 3, 6. 7, and 8,* are all unimpeachable, two being brahmuns like the prisoner, and two the chowkeedar and gorait of the village, and they all clearly and distinctly swear to the facts of the case as above detailed. They saw the deceased Gungasuhoy beaten unmercifully by the prisoner and his friends; and they testify to the wounded man having been at once conveyed to the thannah, where he died almost as soon as he arrived there. They all speak to the cause of the quarrel; and they all identify the prisoner as Hurnath, the son of Rugbeer, of these four witnesses, two Bhyroo Chowkeedar, No. 7, and Modun Singh No. 8, were examined by my predecessor in the original case against Ramnath, Rugbeer and Sheonath, while Bhyroo Chowkeedar it is, who has been the means of now tracing and apprehending the prisoner under trial.

* Viz. Rajcoomar Singh Brahman, Bubeechurn Gorait Bhyroo chowkeedar, and Modun Singh Brahmun.

All but one of the thirteen witnesses to the defence are Brahmuns ever ready, in this district to swear to any untruth on behalf of a person of the same caste. The first four live far from Pursah, and know, they say, the prisoner only from what he (prisoner) and his friends told them. The 4th goes further and says he recollects prisoner having been at his village, six or eight *coss* off from Pursah *the night of the occurrence*, the date of which he gives after an interval of four years. Of witnesses Nos. 6 to 13, three give no testimony at all; but 5* all living at or near Pursah have sworn to prisoner being Hursuhoy the son of Modup, *who has never left his home*, but in such a loose manner and so much in discordance one with another, and all with the prisoner as to the cause of his not having been previously apprehended, that I have ordered their commitment for perjury.

* No. 6, Durshun Singh.
,, 7, Tahul Lohar.
,, 9, Gugun Singh.
,, 11, Ramsuhoy Singh.
,, 12, Jodhee Singh.

The law officer convicts the prisoner of being an accomplice in aggravated culpable homicide and liable to punishment by "*tazeer*," and as I agree with him, I beg to recommend the prisoner be sentenced to ten years' imprisonment with labor and irons in banishment.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) We concur with the officiating sessions judge, that the proof of prisoner's identity is satisfactory. We therefore convict and sentence him as proposed. We observe that he should not have been committed as Hurnath *alias* Hursuhoy son of Modhun, but as Hurnath son of Rugbeer whom the magistrate believed him to be.

1855. November 29. Case of Hurnath *alias* Hursuhoy.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND MUSST. TIRPOORAH

versus

HARROO MUNDUL CHOWKEEDAR (No. 39,) MUDUN HOLDAR CHOWKEEDAR (No. 40)

Midnapore.

1855. November 30. Case of Harroo Mundul and another.

The conviction and sentence of the sessions judge, passed on the prisoners upon the clearest evidence against them, were not interfered with on appeal.

CRIME CHARGED.—No. 39, wilful murder, in having wilfully and maliciously so struck the deceased Seesoo Singh, the husband of the prosecutrix Tirpoorah, with his hand that he died a short time afterwards from the effects of the blow: No. 40, privity to the above crime in not having given information of the occurrence although he was present at the time and is in Government employ as a Chowkeedar.

CRIME ESTABLISHED.—No. 39, culpable homicide and No. 40, privity to the above.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 7th September, 1855

Remarks by the sessions judge.—Prisoners plead *not guilty.* The prosecutrix deposes that on the evening of the 4th July, the prisoner came to her house and took away with him her husband, Seesoo Singh, saying he was required to carry a bundle of articles belonging to a thannah burkundaz to Kookrahatee, which was then at the house of Mudun Holdar prisoner No. 40; that hearing no further tidings of her husband she went to the house of Mudun Holdar and discovered that her husband was dead, having been assaulted by the prisoner Harroo No. 39. This testimony is corroborated by the evidence of two eye-witnesses No. 1, Kishto Dey, and No. 2, Dyaram Holdar, who deposed that on the evening abovementioned the prisoner No. 39, Harroo, brought the deceased from his house to that of the prisoner Mudun Holdar and desired him to carry a bundle belonging to one Sonaoollah Burkundaz to Kookrahatee; that deceased refusing to do as he was desired, the prisoner No. 39, assaulted him with his hand by striking him on the face and side that the deceased fell to the ground from the effects of the

1855. November 30. Case of HARROO MUNDUL and another.

blows administered and expired before morning in the house of the prisoner Mudun Holdar. The sub-assistant surgeon, the witness No. 9, who made a *post mortem* examination of the deceased Seesoo Singh, says, that the body exhibited marks of severe beating about the head and other parts, that the immediate cause of death was rupture of the spleen which was in a natural and healthy state and that, in his opinion, the rupture could only have ensued from the violence which had evidently been used towards the deceased. The prisoner No. 39, Harroo Mundul pleads in defence, that Seesoo Singh died from disease and cites witnesses to prove it. The prisoner No. 40, Mudun Holdar pleads that he did report the death of Seesoo at Kookrahatee pharee. The assessors (three), with whose assistance the trial was held declared the prisoner No. 39, Harroo Mundul guilty of assaulting the deceased Seesoo from the effects of which he died and the prisoner No. 40, Mudun Holdar, guilty of privity in knowingly and wilfully concealing the fact from the police, when it was incumbent on him as a servant of the Government to have reported it. The evidence of the prisoners' guilt is in my opinion clear and conclusive. In the mofussil and before the magistrate, in their defence, the prisoners criminate each other, by each accusing the other of committing the assault on deceased. From the deposition of the sub-assistant surgeon, who heard the evidence given in this court, it would appear that the body exhibited much greater marks of violence than might be inferred from the inquest, and the testimony of the eye-witnesses who deposed to the infliction of two blows *only*, which were by no means sufficient, in his opinion, to account for the injuries exhibited in various parts of the deceased especially of the head, it may be fairly presumed that both the prisoners were accomplices in the assault, though the evidence only tends to criminate one, viz., Harroo Mundul. The privity of the prisoner Mudun Holdar to the violent death of Seesoo, in his withholding information of the assault, and subsequent death in his house of the deceased, information which he was in duty bound as a chowkeedar and servant of the State to give to the police, is also clearly established; the prisoner Harroo fails to prove the defence he sets up in this court that disease was the cause of Seesoo's death, and the prisoner Mudun is equally unsuccessful in showing that he ever reported his death in the proper quarter.

Sentence passed by the lower court.—No. 39, to five years' imprisonment with labor and No. 40, to three years' imprisonment without irons, and to pay a fine of 20 Rs. within one month, or in default of payment to labor until the fine be paid or the term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We see no reason to interfere with the conviction and sentence.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*

GOVERNMENT AND BUDEE KHAN

versus

SREEMUTHA SABITHRA.

Midnapore.

1855.

November 30.

Case of SREEMUTHA SABITHRA.

The prisoner in her confessions had endeavoured to throw the onus of the crime of murder on a third party, admitting only her own privity to the murder. But as it was clear that she alone committed the deed, she was convicted of wilful murder and sentenced capitally.

CRIME CHARGED.—Wilful murder, in having for the sake of the ornaments on the person of Huree, the daughter of the prosecutor, Budee Khan, aged six years, wilfully killed her by some means unknown, but which appears from the deposition of the civil assistant surgeon to have been caused by pressure of the throat or strangulation.

Committing Officer.—Mr. G. Bright, magistrate of Midnapore.

Tried before Mr. W Luke, sessions judge of Midnapore, on the 29th October, 1855.

Remarks by the sessions judge.—It is in evidence that the deceased child Huree, the daughter of the prosecutor went with some other children, the witnesses No. 17, Sham Khan and Musst. Beelasee No. 18, to catch fish, whilst so employed she was enticed away by the prisoner Sabithra, on the promise of receiving a lemon. On the same day (13th August,) the witness No. 25, Kenoo Sunt, on his way to the prosecutor's house heard a groaning noise in the hedge and mentioned it to the witness Sreemuthee Gowree No. 11, who accompanied by the witness No. 16, Suroop Khan went to ascertain the cause.

They then discovered the deceased Hurree lying in the hedge insensible, stripped of the ornaments she wore when she left home. Measures were taken to restore animation but without success and the child expired shortly after.

Suspicion fell on the prisoner, as the child had been enticed away by her and was last seen in her company, and she was accordingly arrested. Before the darogah she confessed that she had, at the instigation of one Santikur, inveigled the child away from the place where she was fishing; that the former then led her into a mulberry garden, squeezed her throat and struck her some blows on the side of the head which rendered her insensible; that he then stripped off the ornaments and threw the body into the hedge where it was found. The prisoner likewise pointed out the spot where the silver necklace and other ornaments were concealed, which the prosecutor identified as his property and as being worn by the child when she left her home.

According to the inquest held in the mofussil, the side of the head of the deceased was swollen, as if from the effects of

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Case of SREEMUTHA SABITHRA.

blows; there were likewise marks on the throat as if it had been compressed, either by the hand or by a rope, and blood was adhering to the mouth and nostrils.

The results of the inquest are corroborated by the sub-assistant surgeon's evidence before the deputy magistrate, who further expressed an opinion that the death of the child was caused by strangulation.

The attendance of the sub-assistant surgeon has not been secured in this court, as he is absent from Tumlook on sick leave, and I have not deemed it expedient to postpone the trial (which has already been pending for some time) till his return.

The prisoner in this court pleads *not guilty* and cites three witnesses, who are unable to depose any thing in her favor.

The assessors, with whose assistance the trial has been held, declared the prisoner guilty as an accessary both before and after the murder.

I concur in this finding. The evidence against the prisoner is conclusive that she inveigled the deceased away, and that shortly after, the latter was found insensible in a hedge with the marks of violence on her person, from the effects of which she died almost immediately.

The confessions of the prisoner are fully corroborated by the evidence and I have no doubt whatever that she, and she alone is guilty of the murder. As, however, there are no eye-witnesses to the assault and since the prisoner in her confession only admits her guilty knowledge of the murder, I would convict her as an accessary both before and after the fact, and recommend that she be sentenced to imprisonment for life with labor suitable to her sex.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) It is in evidence that the prisoner had accompanied the deceased and some others to fish, and took away from her companions the deceased child under pretence of giving her lemons, that not long afterwards the deceased was found in a state of insensibility by her mother, whose attention when seeking for her child was attracted by hearing her groans in the jungle. The jewels she wore had been abstracted from her person and her body exhibited marks of strangulation and other violence, from the effects of which she died the third day following, without recovering her senses. The fact of the prisoner having enticed her away from the fishery becoming known, led to her apprehension, and she confessed to the police that instigated by a person named Santikur she had enticed the child away from her companions, and thus gave him the opportunity to strangle her and secure her ornaments, and that Santikur gave her the metal ornaments and kept the silver necklace himself. On that day she produced the metal ornaments alleged to have been given to her and on

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the following day, after much persuasion, she is said to have pushed on Santikur, and *preceding* him *herself* to have taken the necklace from the place where it was concealed in the jungle, *saying* that Santikur had hidden it there. In the foujdary, though maintaining that Santikur had instigated her to give him the opportunity of stealing the ornaments, she stated that Santikur saw the child standing near her house while she had gone in to get her the lemons; that he there induced the child to accompany him to the lime-tree, and when she came out of the house and called the child she beheld Santikur leading the child into a neighbouring mulberry field, where she saw him strike the child to the ground and throttle her; that he then stripped off her ornaments and offered her the metal ones, to conceal the murder, keeping for himself the silver *hunslee;* that he threw the dead body, as they supposed, into the jungle, and that as she did not like to take home the metal ornaments at once, she concealed them in the grass. The confessions of the prisoner, therefore, are substantially the same and if substantiated in all these particulars regarding Santikur, would clearly show by her receiving her share of the stolen property on the spot, that she was a consenting party to the murder of the child in her presence, and as the sessions judge and jury were guided by those confessions as to the degree of the prisoner's guilt, they should have found her guilty as an accomplice; accessaryship both before and after the fact necessarily involves the absence of the party at the actual time of the murder. The finding of the sessions judge therefore is erroneous. We however see no reason to give the prisoner the benefit of that part of her confession which throws the murderous act upon another. There is no single criminative circumstance which can possibly connect Santikur with either the murder or the theft. The prisoner was alone when she enticed away the deceased, and although she at first intimated that Santikur had appropriated the necklace and appeared to have no knowledge of its place of concealment, she herself pointed that out to the police and with her own hands produced the *hanslee.* Her pretended ignorance on this point was clearly intended to support her accusation of Santikur, on whom she wished to throw the onus of the crime. We feel it impossible to resist the full conviction that she alone committed the deed, and the facts on evidence before us warrant a conclusive presumption to this effect. We therefore convict her of the murder of the child Hurree, for the sake of her ornaments, and sentence her capitally for the same.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

Hazareebagh.

1855.

November 30.

Case of BOODHOO.

Prisoner convicted of murder and under all the circumstances, sentenced to transportation for life.

GOVERNMENT AND GUNDOORA *versus* BOODHOO.

CRIME CHARGED.—Wilful murder of Kana, brother of Gundoora.

Committing Officer.—Captain W. H. Oakes, Principal Assistant Commissioner, of Lohardugga.

Tried before Major J. Hannyngton, deputy commissioner of Chota Nagpore on the 30th October, 1855.

Remarks by the deputy commissioner.—The prosecutor states that on a Sunday in October, the prisoner called the deceased Kana to his house and there murdered him with a block of split wood. Deceased (whose wife is living) had been unduly intimate with the prisoner's sister Biptee for a year past. Witness gave information to the police on the day following the murder, but did not then mention any cause for it.

The prisoner pleads guilty.

No. 1, witness, Kurun, states that he heard the outcry and immediately apprehended the prisoner, who then confessed that he had murdered the deceased. The prisoner's sister, Biptee, had gone to Cuttack and thence returned with the deceased. Prisoner had been for four days in custody, when the police officer arrived, and did not, during that time, assign any cause for the murder. Prisoner had known of the intimacy between Kana, the deceased, and Biptee They stayed in Kana's house and the murder occurred in about twenty days after their return from Cuttack.

The confessions of the prisoner, which are attested by the witnesses named in the margin,* are to the effect that he found the deceased in the day-time having carnal connection with his, the prisoner's sister, and prisoner therefore killed him with a block of split wood.

* Nos. 1, Kurun.
,, 7, Sewchurn.
,, 8, Sheikh Bheekun.
,, 9, Sheikh Bheekaree.
,, 10, Bukhowry Singh.
,, 11, Prayag Singh.

No. 12, witness Biptee, states that on a Sunday she and Kana were lying together on a cot, when her brother, the prisoner, came and struck her some blows with his fists. She then fled and prisoner murdered Kana. The deceased had cohabited with witness for eight months, and prisoner was aware of it, and had never forbidden it. Witness had gone to Cuttack with deceased and had lately returned.

1855. November 30. Case of BOODHOO.

The prisoner in his defence repeats the matter of his confessions, adding that the deceased and his brethren had some months ago taken away the prisoner's sister by force.

The jury whose names are entered below,* find the prisoner guilty as charged.

That the prisoner committed the murder is fully proved, and it has only to be considered whether the justification pleaded be in any degree admissible. The evidence of Mussumut Biptee shows that she and the deceased were together under circumstances that might exasperate the prisoner, and the weapon used by him appears to have been the first that came to hand. The statement of the prosecutor that the prisoner called the deceased is not supported by other evidence. But on the other hand, it is clear that the intimacy between the deceased and the prisoner's sister was well known to the prisoner, and as the parties are of the same tribe, there was nothing of unusual aggravation in the relations subsisting till the moment of the murder. I am therefore of opinion that the prisoner's plea is not a justification, but that a capital sentence may be spared, and I accordingly recommend that the prisoner be sentenced to imprisonment for life with hard labor in irons in transportation.

Remarks by the Nizamnt Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin.) The prisoner, in his confession, states the deceased had seduced his sister and taken her away for six or more months; that he was a poor man unable to contend with the deceased and his four brothers; that when he killed the deceased, he caught him in the act of connexion with his sister in the day-time, in his, (prisoner's) house, and could not forbear striking him with a fagot, which was close by. The evidence discloses all the above facts. It is to be regretted no question was put to ascertain how the sister was found in her brother, the prisoner's house, after having eloped with the deceased and been away several months, either to the prisoner, prosecutor, or witnesses. The provocation was intense, and the act of murder unpremeditated, and on sudden impulse. We therefore concur with the deputy commissioner, and sentence the prisoner to transportation for life.

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* Lalla Sujrag Singh, Mooktear.
Ukhowry Imret Lall, ditto.
Ukhowry Luchmeenarain, ditto

SUMMARY CASES.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

Sylhet.
1855.
November 2.

GOVERNMENT
versus
LALL SINGH, KUMALA SINGH AND UTTUL SINGH.

Case of LALL SINGH and others.

The Court ruled, on a reference, that the levy of tolls on a river is not punishable under Sec. 39, Reg. IX. of 1810. A complaint may be laid however and punishment awarded for such compulsory levy.

This case was referred to the Nizamut Adawlut under Section 5, Act 31 of 1841, and Circular Order dated 18th March, 1842, by Mr. F. Skipwith, sessions judge of Sylhet, on the 18th August, 1855, with the following report.

Mahomed Kazim, Jemadar of thannah Latoo, reported to the darogah that he had heard that some Moneeporees had established a Ghaut on the Lungye river and were taking tolls. The darogah forwarded the report to the magistrate who desired him to enquire into the matter; this he did, and reported that the spot where the Ghaut was established belonged to Bishenpersad (a brother of Kishenpersad, foujdary mohurrir) and that it was proved that the defendants were taking tolls without any legal right.

The witnesses and the jemadar were sent for and the case was made over for trial to the law officer, who, on the 14th March, reported to the magistrate that it was proved that the defendants were in the habit of taking tolls, but that the names of the parties mulcted by them could not be discovered, and he asked therefore if the defendants were liable to punishment.

The magistrate replied that they were liable, and the Cazee therefore summoned Rajmonee Singh Rajah, the three defendants and two others, and fined the defendants 10 Rs. each. The other parties have not appeared.

The defendants appealed to the magistrate, objecting that they had a right to take toll, and that no one had complained against them, but their objections were overruled and the law officer's order was confirmed.

On examination of the monthly statements I sent for the case, and finding no evidence against the defendants of any illegal proceeding while they pleaded a right to take toll, I called upon both officers to name the law under which they had acted.

The law officer unable to quote any law justifies his proceeding by the instructions of the magistrate, while the magistrate states he has acted under Regulation IX. of 1810, which is a law regarding inland customs and is clearly inapplicable.

As the magistrate's proceedings are illegal *ab initio*, no complaint having been preferred to him on oath by any one, and the charge framed upon the darogah's report is wholly unproved, I

1855. November 2. Case of LALL SINGH and others.

trust the Court will be pleased to quash the conviction and direct that the fines be returned to the defendants.

The proceedings in my opinion reflect no credit upon either the magistrate or the law officer.

From the Register of the Nizamut Adawlut to the sessions judge of Sylhet No. 785, dated the 30th August, 1855.

The Court, having had before them your letter No. 53, of the 18th instant, submitting, under Act XXXI. of 1841, the record of the case of Lall Singh and others, direct me to return the same and to request that you will comply with the requirements of Circular Order No. 65, of the 17th July, 1851.

In reply to the above, the officiating sessions judge submitted the following letter No. 62, dated 1st October, 1855.

In reply to the Court's letter No. 785, dated 30th August last, I have the honor to forward herewith an explanation submitted by the magistrate as well as the records of the case as noted in the margin.*

* Government *versus* No. 1, Lall Singh, ,, 2. Kumala Singh, ,, 3. Uttul Singh, convicted of taking illegal tolls.

On reference to my predecessor's letter No. 53, of 18th August last, a copy of which is herewith submitted, and the circumstances of the case cited above, I fully concur in the opinion expressed in Mr. Skipwith's letter, viz., that the proceedings of both the magistrate and of the law officer in the case are illegal, and trust that the fine inflicted upon the defendants in the case, will be refunded to them by order of the Court of Nizamut Adawlut.

From the magistrate of Sylhet to the officiating sessions judge of Sylhet, No. 388, dated 19th September, 1855.

I have the honor to acknowledge the receipt of your letter No. 34, of the 17th instant with enclosures, and in reply to state that I am unable to furnish any further explanations than that according to my reading of the law I was under the impression that the case was punishable by Regulation IX. of 1810.

The papers of the case are not before me for reference, but as far as my recollection goes, the jemadar of the thannah while out on duty at Lungye guard, was made aware that certain Munpooreans had been in the habits of taking illegal tolls on the Lungye river; he reported (very properly) the circumstances to me and I ordered a local investigation to be made, but as the names of those from whom tolls had been taken did not appear, I ordered the case to be instituted, on the zemindar's complaint it was proved and the defendants punished. As to the name of the parties who paid these tolls, they were very probably Kookees or Nagas whose names and whose abode it would be difficult to discover. Considering then such extortion as fraudulent offence against property, I consider myself

1855.

November 2.

Case of LALL SINGH and others.

justified under Section 6, Regulation IX. of 1807, in taking up the case, leaving the aggrieved parties the option of complaining for damages in the civil court, according to Regulation IX. of 1810, Section 39.

As to the Regulation being inapplicable, that could only be caused by a difference of reading and construction, Section 38, of the Regulation quoted. IX. of 1810, lays down what punishments may be adjudged in cases where, *native officers employed* in the *customs* make unauthorised collections and then in next Section (the one quoted by me) the Regulation provides for cases where *all native persons*, not being officers in Government employ in the collection of Government customs, &c., exact customs or *duties* of *any* denomination, or *any pretence whatever*.

The present case in my construction of the law clearly came under the last quoted Section and I accordingly, finding the case proved, confirmed the law officer's decision in appeal. Should my construction of the law be a wrong one, I regret having referred to Beaufort's Guide (page 638, paragraphs 3223 and 3224) instead of to the law itself.

By construction 76 the mere demand of a toll is declared a misdemeanor, and such would be punishable under general regulations.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 938, dated 2nd November, 1855.

The Court, having perused the papers above recorded, connected with the case of Lall Singh and others, are of opinion that the levy of tolls on a river is not punishable under Section 39, Regulation IX. of 1810, which applies to "Government customs and duties" levied by unauthorised persons. A complainant is, of course, at liberty to institute a charge of the above nature and if it be proved that the tolls were compulsorily taken, and without authority, the parties, so levying them, would be liable to punishment.

The Court direct that the amount of fine imposed on the defendants be returned to them, if it has been levied.

PRESENT:

SIR R. BARLOW, BART., AND J. H. PATTON, ESQ. *Judges.*

GOVERNMENT

versus

MUDHOO DOME CHOWKEEDAR, DURBAREE DOME, AND FIVE OTHERS.

Beerbhoom.

1855.

November 6.

Case of MUDHOO DOME CHOWKEEDAR and others.

Security for future good conduct demanded from certain prisoners, on the grounds that they were undoubtedly implicated in a dacoity, and had been in the habit of making over stolen property to opulent individuals. As these charges were not proved and, as, if they had been, the prisoners should have been dealt with on these charges *themselves*, the grounds for demanding security were overruled.

On appeal by the prisoners, the case was submitted by the sessions judge with the following report.

The appellants with two other prisoners, who have not appealed, were reported by the magistrate to be bad characters, and recommended by him to be required to furnish security for future good behaviour for the period of three years in 200 Rs. each, and in default thereof to be imprisoned for that period, and to pay within one week a fine of 50 Rupees each in lieu of labor.

I confirmed the magistrate's proceedings and ordered the prisoners to furnish security for good behaviour for three years, either in one surety for 200 or two sureties of 100 Rs. each, or in default thereof to be imprisoned for that period, and that they be allowed one month from the date of that order to pay a fine of 50 Rs. in lieu of labor.

Resolution by the Nizamut Adawlut.—(Present: Sir R. Barlow Bart., and Mr. J. H. Patton.) No. 913, dated 6th November, 1855

The Court, having perused the papers above recorded, observe that the petitioners, Nadir Dome, Durbaree Dome, Ralha Hari, Bisoo Dome and Madhub Dome, were sent up on the 9th May last, to the sessions judge, with a recommendation that security for future good conduct, to the extent of 200 Rupees each, should be demanded. The sessions judge, on the 22d May, upheld the magistrate's recommendation. The grounds of this recommendation and order are detailed by those officers in their English proceedings on the record. By these it appears, that four of the prisoners were implicated in the confessions of two dacoits committed to the sessions. The magistrate records that "although the service lands of the defendants are sufficient for their support and their witnesses (mostly relations or of the same caste) give them a good character, I consider their undoubted participation in the dacoity sufficient ground for demanding security for good conduct to the extent of each of them and in the event of their being unable to furnish it, recommend that they be detained in prison for three years with labor." Further, "the amount of security has been fixed on due consideration, as there can be no difficulty in their furnish-

1855. November 6. Case of MUDHOO DOME CHOWKEEDAR and others.

ing it, especially as they are backed by several opulent individuals who have hitherto made a trade of receiving stolen property by their means."

If there was proof of the undoubted participation of the prisoners in the dacoity, they ought to have been committed to the sessions, but they were not. The dacoity therefore cannot be sufficient ground for demanding security. The allegation, that the prisoners have made a trade of making over stolen property to opulent individuals, is not attempted to be proved and there is no proof whatever, on the record, of the previous conviction or even apprehension of the prisoners. Under the above circumstances, a demand for security upon bare suspicion on the part of the magistrate cannot be upheld. The order of the sessions judge, in confirmation of that of the magistrate, is therefore reversed and the prisoners must be released.

Behar. 1855. November 30. Case of CHOOLAHIE SINGH.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

CHOOLAHIE SINGH.

The prisoner who had twice effected his escape from the police of the jail at Gyah, was removed to Alipore for the rest of his term of imprisonment by order of the Court under Sec. 8, Reg. LIII. of 1803.

CRIME CHARGED.—Effecting his escape from the custody of Peerally, acting jail burkundaz, while working on the roads.

Committing Officer.—Mr. F. C. Fowle, magistrate of Behar.

Tried before Mr. T. Sandys, sessions judge of Behar, on the 1st September, 1855.

Remarks by the sessions judge.—The prisoner was originally sentenced to (14) years' imprisonment with labor and irons for the aggravated culpable homicide of Dhoomun Khan, vide printed decisions, dated 27th February 1854, page 230. Before issue of sentence, however, he and his fellow prisoner, Gokhool, managed to effect their escape from *hajut tujweez.* The prisoner subsequently delivered himself up and was sentenced to an additional term of three years for such escape, vide trial No. 4 of sessions statement of punishment for June 1854.

Whilst working on the road, although heavily ironed, he again escaped from the custody of Peerally, acting jail burkundaz on 19th May last.

About 7 P. M. on 12th July following, he was seen leisurely walking through the streets of Gaya with a sword under his arm by the within witnesses,* who following appre-

* Witness No. 1, Bundally Putthan Chowkeedar.
" " 2, Chukowree Kuhar.
" " 3, Jassodanund Mokhtear.

1855.

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Case of CHOOLAHIE SINGH.

hended him. With regard to the daring character of the man, he most probably either delivered himself up, or allowed himself to be captured.

The only defence he set up before the magistrate was, that hearing the prisoners were to lose caste by food, he escaped and ran off to Calcutta, whence he had only just returned when seized. Before this court, he would set up no defence.

The jury unanimously return a verdict of guilty on the count charged.

Khodabux of Bareedpore, Moonghyr.
Shaikh Abidally of Dowlutpore, Behar.
Nurotum Pandeh of Bahadoorpore, Behar.
Bhowaneepershad of Seyorra, ditto.

There has been nothing of an aggravated character on the prisoner's part either on the present or former occasion of his escape. Both times he has succeeded in effecting it quietly, through some sinister influence or otherwise unaccountable supineness on the part of the jail officers. Both times also he has as quietly delivered himself up. He has been tried before this court for these escapes under clause 1, Section 9, Regalation LIII, 1803, but under the foregoing circumstances, I find some difficulty in awarding punishment. I originally purposely recommended his sentence to take effect in the district jail, for example's sake, he being a notorious character well known at Gyah, but results shew that he has too many good friends here, some of whom are too influential to admit of his punishment being effectually carried out here, I would therefore defer passing any other sentence on the present occasion beyond that of transferring him to the Alipore jail for the whole period of his original sentences, viz. seventeen years inclusive, which together with his being in the present occasion an "escaped convict sentenced by the court of Nizamut Adawlut" necessitates the present reference.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 1003, dated 30th November, 1855.

The Court, having perused the papers above recorded and taken into consideration the reasons assigned by the sessions judge for removing the prisoner, Choolahie Singh, direct, under the authority vested in them by Clause 5, Section 8, Regulation LIII, of 1803, that the prisoner be removed from the jail of Gyah to the Alipore jail, and be kept and employed there according to the tenor of his sentence during the remaining period of his imprisonment.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND OTHERS

versus

PERTOO MANJEE.

Bhaugulpore.

1855.

December 4

CASE OF PERTOO MANJEE.

Prisoner, against whom there was trustworthy evidence of numerous eye-witnesses, and in whose favour the evidence for the defence was nil convicted of rebellion attended with murder, and sentenced to be hung at the scene of his crimes according to Cir. Order No 42, of 29th June, 1850.

CRIME CHARGED.—Rebellion attended with murder, 1st, in having unlawfully assembled men for purposes treasonable to the State and subversive of public tranquillity; 2nd, in having wilfully murdered Debbi Roy, Muhabul Singh, Shuful Singh, Sheikh Fyzoo and Isheyn Dial Chutroboch and many others; 3rd, in having been an accessory to the above murder; 4th, aiding and abetting in the above murder, and 5th, for having illegally assembled with arms and plundered the villages of Chandpore and Mudhwun and others with open violence.

Committing Officer.—The Hon'ble A. Eden, assistant special commissioner, exercising the powers of a joint-magistrate, Bhaugulpore.

Tried before Mr. W. Bell, sessions judge of Bhaugulpore, on the 6th November, 1855.

Remarks by the sessions judge.—The trial was conducted by me on the 5th and 6th of November, at Bhaugulpore, with the assistance of a jury, consisting of Lootf Allee, Waris Allee and Mudhoo Surma. One prisoner only was arraigned upon a charge of rebellion with murder. The assistant commissioner, the Honorable A. Eden, committed the case and states in his calendar: "This prisoner was a well known leader of the most sanguinary description in the Sonthal rebellion, his name carried dread with it wherever it was heard. He in combination with Chaton Nazir and Kanhoe Sepahi No. 2, of the principal leaders, laid waste nearly the whole of Pergunnahs Muneeharee. The prisoner used to travel in a palanquin, and the victims were all killed before his eyes at his orders. In this case, there is a peculiarity that there were a number of eye-witnesses to the plunder of Chandpore, men of respectability whose evidence there is no reason to doubt. One of them, Hurdial Singh, was himself wounded by Pertoo's order, and his son, Gokul, killed before his eyes in the village. Debbi Roy, Muhabul Singh, Shuful Singh, Shukinar Singh, Chintamun Chowdry, Sheikh Fyzoo, Sheikh Budoo, Digumberloll, Beharyloll and about twenty other men were seen by several witnesses to be murdered. After which, the houses were plundered. There is the clearest proof of these murders having been committed by Pertoo's orders, and in his presence, this man also plundered other villages, and is identified by several witnesses as having

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murdered a number of men at Mudhwun and plundered the village. The *palki*, in which he travelled, is produced and identified, having been taken from his house by the foujdary Nazir. The prisoner is known to have been one of the leaders at Pealapore, at the unfortunate affair in which the hill-rangers were so thoroughly defeated by the rebels with the loss of two Europeans and ten or fifteen Sepoys. He was apprehended by me, having had the impudence to come in amongst others to speak to me in the station."

The prisoner, before the sessions court, pleads *not guilty*, but there is the clearest proof established by no less than fourteen eye-witnesses* to his having headed the rebels in full force, and superintended the plunder of Chandpore and Bulhoee, and murdered upwards of eighteen persons, who are enumerated by the several witnesses. He issued the orders to plunder and kill from his *palki* in which he remained, having the men brought, slaughtered before him. One of the prosecutors, Hurdyal Singh, was severely wounded and one of the witnesses, Gungaram, had no less than twelve arrows in him. There is not the slightest reason to question the veracity of the witnesses. In his defence, the prisoner simply denies and says his witnesses will prove he was not there. No. 25 heard he was at the plunder, but *knows* nothing. No. 26 knows nothing about him, and No. 30, his brother, does not know any thing about him. The jury return a verdict of guilty, in which I agree.

* Nos 1, 2, 3, 4, 5, 7, 8, 9, 10, 11, 12, 13, 14 and 15.

There is not a single point brought forward in his favor; he is clearly convicted of the most fearfully cold-blooded murders. One of his victims was a boy of six years old and the rest seem to have offered not the slightest resistance Considering him as a ringleader in the rebellion and a blood-thirsty murderer, I would select him for a particular example and beg to suggest that he may be hanged at the scene of his murders and his body afterwards exposed in chains.

I beg to draw the Court's attention to Mr. Eden's remark ("The prisoner is known to have been one of the leaders at Pealapore, at the unfortunate affair in which the hill-rangers were so thoroughly defeated by the rebels with the loss of two Europeans and ten or fifteen Sepoys") which appears to me unnecessary and uncalled for, there is not in the record any notice about this affair, and it has nothing to do with the trial, and as such allusions, in public official documents, should be avoided when unnecessary, I propose, with the Court's approval, to direct Mr. Eden to abstain from irrelevant remarks.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) There is complete proof of the

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prisoner's guilt on the record. He however has throughout pleaded *not guilty* to all the charges. The eye-witnesses, one of whom, Gungaram, was wounded, as well as the prosecutor, Hurdyal Singh, Sheikh Bukshoo, Bholee Chumar, Bolee Bola Goala, besides other witnesses, who also saw the several murders committed at Chandpore and Phoolee, have distinctly sworn throughout the investigation, that they saw Pirthee and other Sontals kill Muhabul Singh, Hurdyal's son, Behareelall, Soobul, Debbi Roy Mostajir and others, by order of Pertoo, the prisoner, who was in his palanquin and present at the time his order was executed at Chandpore; Bunsee Thakoor, Bhyaram Misser, Jhotoo, Birmo Dutt, Lutchoo, Kunnyha Thakoor, depose to Pertoo's presence and to his ordering Pirthee and his followers to murder Binda, the child of Ramlochun, one of the prosecutors, and also Chutter Bhooj, Iswor Missur, Pearee Missur, and others at Phoolee. The witnesses are all well acquainted with the prisoner and have long known him; some live close to him. The witnesses cited by the prisoner in his defence say nothing in his favor. We convict the prisoner, one of the leaders of the insurrection, of rebellion with willful murder in the instances above stated and concur with the sessions judge in sentencing him to capital punishment, which will be carried out at Chandpore, Pergunnah Bhaugulpore, where some of the murders were committed, according to the rules laid down in Circular Order No. 42, dated 29th June, 1850, which must be strictly observed.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ. *Judges.*

GOVERNMENT

versus

TRIAL No. 1.

SEEDOO MANJEE (No. 1,) KISTO SONTHAL (No. 2,) MOOCHEEA SONTHAL (No. 3,) DUKEA* SONTHAL (No. 4,) HINGO CHOWDRY (No. 5,) CHUCKOO DOME (No. 6,) BUDDUN DOME (No. 7,) JOORAWUN DOME (No. 8,) AND BHOLA* DOME (No. 9.)

TRIAL No. 2.

ANTA MANJEE (No. 10.)

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Prisoners Nos. 1 and 3 convicted, respectively of murder, and of aiding and abetting in murder and sentenced capitally Prisoner No. 2 convicted on 1st, 2nd and 6th charges, and sentenced to imprisonment for life in transportation. Prisoners (5) (6) (7) (8) acquitted. Prisoner No. 10 convicted on his own confessions on the two counts charged, and sentenced to transportation for life.

CRIME CHARGED. - TRIAL No. 1.—Nos. 1 to 3 and 6 to 8, rebellion attended with murder, plunder and arson. 1st count, Seedoo (No. 1,) having during the months of July and August, 1855, assembled men for purposes treasonable to the State and subversive of the public tranquillity, 2d count, in having on the 15th of the same month unlawfully resisted with arms the officers of Government, thereby causing blood-shed; 3rd count, in having between the 5th and 7th July, wilfully murdered Mohes Dutt naib Suzawul and eight others with a sword; 4th count, in having during the months of July and August laid waste a large tract of country, plundering and burning the villages and putting all to the sword and placing the officers of Government at defiance. Nos 2, 3, 6, 7, and 8, 1st count, in having during the months of July and August, 1855, unlawfully joined Seedoo Sonthal for purposes treasonable to the State and subversive of the public tranquillity; 2nd count, in having on the 15th July of 1855, at Muheshpore, unlawfully resisted with arms the officers of Government thereby causing bloodshed; 3rd count, in having been accomplices in the wilful murder of Mohes Dutt naib Suzawul and others between the 5th and 7th July; 4th count, in having been accessary to the wilful murder of Mohes Dutt naib Suzawul and others; 5th count, in having aided and abetted in the wilful murder of Mohes Dutt and others; 6th count, in having during the months of July and August laid waste a large part of the country, burning and plundering the village and putting the inhabitants to the sword and placing the officers of Government at defiance. No. 5, aiding and abetting in rebellion attended with murder, plunder and arson.

TRIAL No. 2.—No. 10, 1st count, rebellion with murder. In

* Acquitted by the lower Court.

having during the months of July and August, 1855, unlawfully joined Chaton Nazir, a rebel chief, and other Sonthals to the number of about 400 for purposes treasonable to the State and subversive of the public tranquillity; 2nd count, in having on the 1st of August, 1855, unlawfully resisted with arms the officers and troops of Government thereby causing bloodshed.

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Committing Officer.—The Hon'ble A. Eden, assistant special commissioner exercising the powers of a joint-magistrate.

Tried before Mr W. Bell, sessions judge of Bhaugulpore, on the 1st November 1855.

Remarks by the sessions judge.—The committing officer, the honorable Mr. Eden, assistant to the special commissioner for the suppression of the Sonthal insurrection, was at the time of the outbreak in charge of the subdivision of Ourungabad, and states: "On the 9th July I received intelligence of an outbreak amongst the Sonthals, on the same day Sunnoo Momin came and told me that large bodies of Sonthals were assembled under Seedoo and Khanoo Sonthals, and that they had murdered Mohes Dutt naib Suzawul and eight others with him and also several other men, that they were killing all they found and plundering and burning. I sent for troops to Berhampore, and on the 13th they arrived and we went in pursuit of the rebels and found the whole country under the hills laid waste, for about forty or fifty miles and the road strewed with dead bodies, all European Bungalows being burnt down. Several Europeans were murdered, but not by Seedoo's gang On the night of the 14th we made a night march and came on the rebels at day-break, and found them encamped at Mohespore. On our approach they at once proceeded to attack us in the most determined way and were only driven off after a determined resistance of about three hours, leaving 175 dead and about 15,000 Rs. worth of plundered property, six sepoys were wounded by arrows; they then scattered and were followed by Mr. Toogood who found in the house of Seedoo the letters produced. Seedoo was afterwaads caught by an old Sonthal sent by me from Ourungabad, with him was caught Kisto (No. 2) he abused the captors of Seedoo and wanted to rescue him, &c. The rebellion has been remarkable for the cruelties and atrocities by which it has been accompanied, some thousands of natives and several Europeans have been murdered and countless villages have been plundered and burnt. Seedoo and Kanoo must be looked upon as responsible for all the atrocities that were committed by the men assembled at their bidding. No adequate cause for the rising has been assigned and probably none exists; disposition to plunder and murder, which is innate in the savage hill-tribes, has been worked upon by several causes which it is unnecessary for me to particularize in this place."

The first trial under report was held at Bhaugulpore on the

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29th, 30th and 31st October, and 1st November, 1855, and I was aided by a jury consisting of Mehur Chunder Misser, Ram Chunder Chowdry and Bhowani Suhoy.

The various pleas of the different prisoners are entered in the margin,* and all the charges are established by the witnesses produced before the court. Where the rising is so general as it has been amongst the Sonthals, and murder so rife, the quieter inhabitants have of course fled, or been compelled by fear to join in the acts of rapine and plunder which have characterized this rebellion and therefore it is the more difficult to obtain clear proof, but, even had the principals in this case pleaded *not guilty* to all the counts, the magistrate has been fortunate enough to bring forward sufficiently good evidence to secure a conviction. No less than eleven witnesses, Nos. 1, to 11, swear to Seedoo as concerned as a principal in the murder of Mohesh Dutt darogah and the unfortunate men who were murdered with him, and having headed the rebels in arms, and resisted the troops sent to suppress the rebellion and as leading the Sonthals in their plundering and burning the villages in the Damun-i-Koh. The evidence of these witnesses is entitled to every credit and the slight differences in their depositions do not shake it in any way; Seedoo's defence before the assistant commissioner and in the sessions court is the same in substance. He denies having risen against the Government and states his grievance to be against the Muhajuns on account of their unreasonable exactions. He states he has complained to Mr. Pontet (the superintendent of the Damun-i-Koh) and the darogah, but they would not listen to his complaint, and therefore he killed the darogah. He acknowledges going with Doorgah to *loot* the Raja's house,

* No. 1, Seedoo	1st count,	*guilty*.
	2d ditto,	*not guilty*.
	3d ditto,	*guilty*.
	4th ditto,	*guilty*.
2. Kisto	1st count,	*guilty of looting*.
	2d ditto,	*not guilty*
	3d ditto,	*not guilty*.
	4th ditto,	*guilty*.
	5th ditto,	*not guilty*.
	6th ditto,	*guilty*.
3, Moocheea,	1st count,	*not guilty*.
	2d ditto,	*not guilty*.
	3d ditto,	*guilty*.
	4th ditto,	*guilty*.
	5th ditto,	*not guilty*.
	6th ditto,	*not guilty*.
" 5, Hingoo	1st count,	*not guilty*.
" 6, Chukoo	1st count, 2d ditto, 3d ditto, 4th ditto, 5th ditto, 6th ditto,	*not guilty*.
" 7, Booddun	1st count, 2d ditto, 3d ditto, 4th ditto, 5th ditto, 6th ditto,	*not guilty*.
" 8, Joorawun,	1st count, 2d ditto, 3d ditto, 4th ditto, 5th ditto, 6th ditto,	*not guilty*.

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and the people with him destroyed the villages. He denies having fought with the troops at Moheshpore and asserts he went forward to salaam and was shot, and he declines offering any other defence beyond this; witnesses Nos. 17 and 18 testify to his confession before the assistant commissioner being voluntary and unbiassed, it is a full statement of what he urges as a defence before me fully admitting his guilt upon all points.

Kisto pleads guilty to being accessary to the murder of Mohes Dutt darogah, and of having laid waste the country as detailed in the count 6th and his participation in these last acts of violence, and being present and armed at the murder of the Darogah is proved by the witnesses (4—1—11) and his violence of language at the arrest of Seedoo by witnesses Nos. 5 and 6, threatening the men if they seized him. Witnesses Nos. 19 and 20 prove his confession to have been free and unbiassed before the assistant commissioner, in it he allows to having joined Seedoo and Khanoo for the purpose of fighting and of his being with Seedoo at the fight (at Buriat). Before me in his defence he admits to knowing that they intended to kill the darogah, and states he was at the *looting* of Mohespore. He admits that at the order of Seedoo and Khanoo the Bungalows were burnt and that he was there but standing at a distance.

Moocheea pleads guilty to having been an accomplice and accessary to the murder of the darogah, and not guilty to the other charges, witness No. 4 declares that Moocheea was at the murder of the darogah, Rampertab Sing (No. 1) that he saw him then, but was too much frightened at the occurrences to notice what he did, and No. 11 Tooroo Manjee that he saw him there armed and taking a part in the ryot. In his confession before the assistant commissioner which is proved by witnesses (Nos. 17 and 18) to have been voluntary, he acknowledges to have been present at the murder of the darogah, to have *looted* the villages, &c. Before me he admits his participation in the murder of the darogah, but denies knowing the intent to murder him beforehand, and his being with the plunderers out at a distance.

Hingoo is only charged with aiding and abetting the rebels. His confession before the assistant commissioner to writing the letters, encouraging the Sonthals and sending a gun and *shurab* to them is proved by witnesses Nos. 22 and 18; his presence at the murder where he went with the darogah is proved by witness No. 1 and also at the plunder of Buriat by witness (No. 12.) The letters* are duly filed with the *nuthee*. Before me he pleads not guilty and in his defence says he acted under compulsion in giving the money, and the guards placed over him took the gun and sent the *shurab*. He cites witnesses Nos. 5 and 6, the former knows that he was placed under a guard

* Nos. 23 and 27.

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and says he has heard that Hingoo sent money, a gun and *shurab*, but he cannot say whether he did so by compulsion. The latter knows nothing about it.

Chuckoo Boodhun and Joorawun all plead not guilty, but allow they were present at the darogah's murder, but say they ran away and hid themselves and did not assist in the plunder, their participation in the business is established by witnesses Nos. 2, 3, 4 and 29.

The jury return a verdict of guilty against all the prisoners Nos. 1, 2, 3, 4, 5, 6, 7, 8 and 9 on all the counts with which they are charged and I agree generally as to the guilt of Nos. 1, 2, 3, 5, 6, 7 and 8, but not satisfied with the evidence against Nos. 4 and 9, direct their release.

The second case under submission is that of Anta Manjee charged with rebellion with murder. I conducted the trial at Bhaugulpore, on the 1st of November, with the assistance of a jury consisting of Shambehareelall, Panchoolall and Humutlall.

The prisoner was charged upon two separate counts, to both of which he pleads guilty, he is shewn by the witnesses (Nos. 1, 2, 3, 4,) sepoys of the 40th regiment native infantry to have been with the party who surrounded and attacked the Adjutant and Doctor of the Regiment and Captain Sherwill, on the 1st of August last, when they were out on an expedition against the rebels at Deajajuree where several Sonthals were killed.

The prisoner is clearly shewn to have been wounded and seized with arms in his hands and to have resisted his capture. He confessed before the assistant commissioner on the 12th of October that he was at the fight, but says Chuttoo Manjee forced him to go, and this confession is attested as free and unbiassed by witnesses (Nos. 8, and 9.) Before me he states that he went to look for his mother and brothers, when Chuttoo Sirdar called him and told him that the soldiers had burnt the village of Deajajuree, and therefore he went with him; that he was armed and went to fight and that he was wounded and seized. He says he has nothing to offer in extenuation of his guilt. The jury find him guilty, in which I agree.

It now remains for me to propose the sentence for the different prisoners. Considering Seedoo guilty of all the crimes and as a ringleader in this disastrous insurrection, I would recommend death. Kisto and Moocheea I would recommend for transportation for life beyond the sea; and Hingoo and Chuckoo, Buddun and Joorawun for fourteen years in banishment. Considering Anta was taken in open arms opposing the Government forces in an attack where several lives were lost, I would recommend capital punishment. The charges proved against the prisoners are of a most serious nature, and the state of the country requires very severe examples being made of all joining in the rebellion. From the beginning of July to the present date the Sonthals have been,

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in arms against the Government, and as yet I believe not a single example has been made of any of the rebels. I am of opinion that it would have a good effect in assisting in putting down this insurrection, if the ringleaders who may be capitally convicted were to be executed in the scene of their crime, and I would therefore suggest that instead of Seedoo and Anta being hanged at the jail, they should be made over to the assistant commissioner, for execution in such village or haut of the Damon-i-Koh as the commissioner for the suppression of the Sonthal insurrection may select; and I would also suggest for the consideration of the Court whether this is not an instance in which the Government might well be solicited to reconsider the order contained in paragraph two of the letter noted in the margin,* interdicting the hanging of notorious offenders in chains, and whether the exposure of Seedoo and Anta after death might not have a beneficial effect.

* From the secretary to Government to the register of Nizamut Adawlut dated 19th October 1833.

Para. 2.—I am also instructed to request that the Court will not in future direct the bodies of any criminals to be exposed on gibbets after execution.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) A reference to the calendar will show the charges preferred against the prisoners severally, and paragraph thirteen of the sessions judge's letter contains the sentence which he proposes should be passed on each prisoner.

The evidence for the prosecution consists of the statements made by two burkundauzes, who accompanied the deceased darogah Mohes Dutt, before the assistant magistrate in charge on the 9th of July; of the depositions of Chummon Douraha and Sunnoo Momin, the first before the darogah on the 21st August and the last before the assistant to the special commissioner with powers of a joint-magistrate in October, and of several Manjees belonging to the Sonthal class, taken by the same officer. These parties were also examined in the sessions court and gave evidence much to the same effect.

Seedoo Manjee prisoner No. 1, has throughout confessed to the murder of the darogah Mohes Dutt, stating that he himself killed him. Numerous eye-witnesses, among whom are the individuals above alluded to, depose to the fact, and, besides the prisoner's confession to having participated in the burning and plunder of the villages there are several witnesses who depose to the same effect.

The prisoner denies having fought with the troops at Mohespore, but it is clearly established that he sent messengers

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to intimidate the darogah desiring him to retire unless he came accompanied with troops.

Prisoner No. 2 Kishen Sonthal, confessed before the special assistant that he joined Seedoo Manjee, on hearing that he was going to fight, and that he was party to burning the Bungalows; he did not however fight at Mohespore, but in the hills; he was not present at the time of the darogah's murder, though he heard of the intention to kill him, he did not give any aid on that occasion; witnesses have however in the sessions court deposed to his presence, and Rampertaub Singh adds he was armed with a battle-axe.

Prisoner No. 3 Moochea, confessed before the special assistant to being present at the murder of the darogah and the other Bengallees and burkundauzes, he also admitted he was at Pakoor and Mohespore, but said he went through fear of Seedoo Manjee.

In the sessions court the prisoner confessed to being an accomplice in the darogah's murder, in another part of his answer, he denied this charge; four witnesses however swore to his presence; he is a relative of Seedoo and is styled a sobadar and is apparently a man of some influence; prisoners Nos. 6, 7, 8, Chuckoo, Boodhun and Joorawun plead not guilty, they are not Sonthals and are said to have accompanied the darogah. They were present no doubt when the murder of the darogah took place, one witness has described them as being armed with clubs, another that they were flourishing them at the time, a third that they were with the Sonthals and beat their drums.

Upon due consideration of all the evidence upon the record, we are of opinion that prisoner No. 1, is guilty of the first and third counts of the charges on which he is arraigned. It is fully proved that he is one of the leaders of the insurrection, and that he was also one of the party who actually cut down the darogah, and he stands charged with that offence.

Prisoner No. 3, is also charged with aiding and abetting and being an accomplice in the murder of the darogah. His confessions, and the evidence of Rampertaub Sing, who deposes to the appeal which the deceased made to the prisoner to put a stop to the lawless proceedings of the insurgents, and the circumstance of his having taken part with Seedoo in several of the acts of violence committed by them, point out the prisoner as having been actively engaged. He is liable therefore to the extreme penalty of the law.

Both the prisoners are in our judgment guilty, Seedoo of wilful murder, and Moochea of aiding and abetting in the same, we therefore sentence them both to capital punishment.

Prisoner No. 2, Kishen Sonthal, denies being present at the murder of the darogah, he admits he heard there was an intention to kill him, he also confesses to the charge of joining Seedoo and to being engaged in the burning and plunder of the villages.

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The evidence of the burkundauz witness No. 1, to his presence at the murder is not supported satisfactorily, we do not therefore hold the prisoner guilty to the same extent as the two above prisoners.

We convict him on the 1st, 2nd and 6th charges and sentence him, as recommended by the sessions judge, to imprisonment for life with labor and irons in transportation.

Prisoner No. 5, Hingoo Chowdree, was the individual at whose house the darogah put up when he went to make the local investigation. Hingoo's conduct was clearly, as seen by the letters which he addressed to the Sonthal leaders the result of intimidation; his object was evidently to secure the protection of Seedoo and his brothers, and with that view he appears to have at once obeyed their command. He is said by a witness to have forwarded a gun to Seedoo and he admits the fact in letter No. 27, which with others addressed to the insurgent leaders, are proof only of his acting in obedience to their commands through fear of consequences, not as indicating that he joined with them and was acting voluntarily.—We therefore acquit him.

The prisoners Nos. 6, 7 and 8, Chuckoo, Bodhun and Joorawun are of the class of domes and are chowkeedars who accompanied the police darogah. Some witnesses have said they saw them flourishing their clubs at the time of the darogah's murder. With what object this may have been done is not clear, it could not have been in opposition to the darogah, on whose part they proceeded to the spot and no overt act has been established against them. We therefore acquit them.

With reference to the sessions judge's suggestion that the Court should recommend the reconsideration of the Government letter of the 19th October, 1833, which interdicts the hanging of notorious offenders in chains, we are of opinion that such a measure is not expedient. It will be sufficient if the instructions contained in Circular Order No. 42, dated 29th June, 1850 will be strictly attended to, and the magistrate or his assistant will be present at the execution, which will take place at Baboopore, the scene of the murders.

Anta Manjee prisoner.—The prisoner immediately on his capture, and again, two months subsequently, before the special assistant to the commissioner, confessed to the two counts of the charge in the calendar. He was wounded in the fight of the 1st August, and taken prisoner by some Sepoys by whom he was brought before Captain Sherwill. He also made similar confession in the sessions court. The sessions judge has recommended that sentence of death be passed on the prisoner. He is charged first, generally with rebellion and murder, the instances are specified in counts Nos. 1 and 2. Murder however forms no part of either of them, nor is any attempt made to establish such charge by evidence. We do not therefore concur with the

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sessions judge in his proposed sentence, but convicting the prisoner on the counts to which he has confessed, we sentence him to imprisonment with labor and irons for life in transportation.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

MUSST. NUTHIAH.

Bhaugulpore.

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Case of MUSST. NUTHIA.

Prisoner, both on the evidence against her and on her own confessions in the magistrate's court and before the police, convicted of murder and sentenced capitally.

CRIME CHARGED.—1st count, wilful murder; 2nd count, theft with wilful murder.

Committing Officer.—Mr. W. T. Tucker, magistrate of Monghyr.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 15th October, 1855.

Remarks by the sessions judge.—It is a case of murder committed on the 1st of September, 1855, at Luckimpore, thannah Turapore, and was investigated by the darogah. It appears that the prisoner decoyed three little boys of about 8, 7 and 5, years of age into a garden and there took off the bracelet and other ornaments from the persons of the two younger ones, the elder remonstrated and said he would tell of her, when she seized him and threw him down a well, the other children escaped and told their story and the boy was discovered in the well, but not until life was entirely extinct. The prisoner on being questioned, acknowledged her guilt and produced the stolen property and duly confessed to the robbery and murder before the darogah and magistrate.

The two boys were produced in my court, but not understanding the nature of an oath, were not examined. The fact of the woman taking the children to the garden is proved by witnesses Nos. 12 and 13, her arrest and the producing the ornaments and the finding the deceased's body in the well is established by witnesses Nos. 3 and 4. Dr. Collins is unable to state the cause of death owing to the decomposed state of the body. Witnesses Nos. 13 and 14, recognise the property* produced by the woman as the property of the children.

* 2, pairs of Arm ring.
1, Taweez.
1, Bracelet.

The confession before the darogah is proved to have been free and voluntary by witnesses Nos. 8 and 9, and that before the magistrate by witnesses Nos. 10 and 11. The confessions in both cases are clear and ample, bearing no doubt of guilt.

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Before the sessions the prisoner pleads *not guilty*, and simply says, she knows nothing about the matter, the darogah made her confess and she never did so before the magistrate.

The jury* return a verdict of guilty and I concur. There is nothing shewn in palliation of her guilt, she robbed the children of their ornaments and deliberately threw the eldest down the well, whether in anger, at his threatening to tell of her, or in the hope of escaping detection is not shewn, but not considering there is any ground for suggesting a mitigation of punishment, I beg to recommend a capital sentence.

* Purusnath Pandey.
Syud Ahmed Ally.
Sukawut Ally.

The darogah has not taken the confession quite formally and attention is drawn to it, but that before the magistrate is strictly so.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) It appears that the two children, whose ornaments were taken, on seeing the prisoner throw their companion into the well, ran off and gave the alarm, and the neighbours, though they at once repaired to the spot and took the deceased out of the well, were not in time to save him, as life was already extinct. The prisoner was immediately arrested by the police, and her confessions, both before them and the magistrate, fully establish her guilt. There is also the evidence of those who saw her take the property from the place where she had concealed it. The case is a clear one and we convict the prisoner of the murder charged and sentence her to suffer death.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

TOHILA (No. 3,) AND HAGRA (No. 4.)

Chota Nagpore.

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Both prisoners acquitted. No. 3, inasmuch as his confessions were open to suspicion, and No. 4, because the admissions which he made before the magistrate. (and which had not been made by him to the police) were apparently based on the confessions of No. 3, these confessions being as before stated not to be depended on.

CRIME CHARGED.—1st count, No. 3, wilful murder of Musst. Langree, and 2d count, No. 4, accessary to the crime after the fact.

Committing Officer.—Capt. W. H. Oakes, principal assistant commissioner, Lohurdugga division.

Tried before Major J. Hannyngton, deputy commissioner of Chota-Nagpore, on the 12th October, 1855.

Remarks by the deputy commissioner.—The Government is prosecutor in this case.

The prisoners plead *not guilty*. Musst. Dheepsee is the wife of the prisoner, Tohila. She states that one evening, about three months ago, the prisoner, Tohila, came home and told her that he had killed Musst. Langree, because she was lazy (*korhnee*). The prisoner, Hagra, is not the son of witness, witness about three years ago contracted a (*Sugaee*) marriage with the prisoner, Tohila. There were two enquiries made by the police in this affair. The prisoner, Tohila, told her that some one had taken from him fifty-four rupees. Witness did not at first mention the murder to any one. There was no report of Oorkas* being in the country.

Ally Bux apprehended the prisoners. Tohila at first denied, but on the second day confessed the murder. Witness saw the body of Musst. Langree exhumed, the bones of the neck had been cut through and only the wind-pipe remained unsevered. When the prisoner's wife and daughter-in-law charged Tohila with the murder, then in fear of his life, he confessed.

The record of the inquest shows that the head of the deceased had been almost severed from the body. The witness, Biria, was present when the body was buried by the prisoner, Hagra. The prisoner, Tohila, told the witnesses named in the margin,* that he had murdered the deceased.

* No. 8, Biria.
,, 10, Darma

The confession of the prisoner, Tohila, made on the 23rd July before the police officer, is to the effect that one day in the first half of the month of Jeth last, his daughter-in-law, Langree, had gone to fetch water from a well, and was found dead in the evening, her throat being cut, prisoner's other daughter-in-law,

* Oorka, a class of mendicants, who are said to murder people and carry away their blood as an offering to demons.

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and his wife, who say that he murdered the deceased, are telling lies. Prisoner had four days ago killed a young pig with his axe on which blood now appears, prisoner buried the deceased and made no stir about her death.

On the 24th July, prisoner made further confession that he did kill his daughter-in-law, Langree, because she was idle. His two sons are guiltless of it, she had gone to the well, prisoner followed and cut her down with an axe, prisoner has lost heart, and hope of life, therefore confesses to-day what he denied yesterday. The axe had been washed, the blood now on it is truly that of a pig, prisoner on the first inquiry gave to Sewlal, the agent of the Burwa Ranee, and to Jewlall Soogundia, fifty-four rupees. They said they would save his life.

The prisoner, Hagra, on the 23d July, confessed before the police officer that he had aided to bury the body of his wife, Musst. Langree, who had been murdered by some one unknown.

The confession of the prisoner, Tohila, before the principal assistant is to the effect that he murdered the deceased, Langree, because she used abusive language. She was very lazy and when told to work, she spoke abusively. He killed her at the well, whither she had gone to fetch water, prisoner gave fifty-four rupees to the police officers of Burwa who promised to save his life.

The confession of the prisoner, Hagra, before the principal assistant is to the effect that he assisted at the burial of his wife, Langree, who had been murdered by his father, Tohila.

The foregoing confessions are duly attested by the subscribing witnesses.*

The prisoner Tohila, in his defence retracts his confessions. That made before the darogah was extorted by putting a stone on his breast, as is known to the witnesses, Biria and Sedhoo, who are present.

The prisoner Hagra, in his defence retracts his confession.

The witness Biria, being re-examined for the defence, states that he knows not of any torture having been inflicted to extort a confession.

The jury, whose names are entered below,† find the prisoners guilty as charged.

The first information of this murder was given on the 11th July, by the witness Gendoora, No. 29, who then appears to have stated that the prisoner Tohila had told him of it, and

* No. 2, Musst. Dheepsee.
,, 9, Jhar Sabaq.
,, 10, Darma
,, 11, Musst. Nooree.
,, 12, Sohrye.
,, 13, Jeetun.
,, 14, Boodhoo.
,, 15, Darhoo.
,, 16, Musst. Pandree.
,, 17, Peelye.
,, 19, Musst. Kubalee.
,, 22, Puchoo.
,, 25, Purgunnait.
,, 26, Sheikh Fuqueera.
,, 27, Moored.

† Ramkanhie Roy, Mookhtar.
Lalla Gujraj Singh ditto.
Ukhurry Injory Lall ditto.

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that witness had seen the body. This witness now states that he only heard of the murder a month after the fact, and from some one unknown. But the information was indeed given on the 11th July, the murder having occurred on the preceding day, (Sawon is in the vernacular put by obvious mistake for the intercalary Asarh) and the body, previous to burial, was inspected on the spot by the Burwa police officer, who reported that the prisoners (the father in-law and husband) and other relatives of the deceased attributed her murder to Oorkas.

The confession of the prisoner Tohila, before another police-officer was not made until his wife and daughter-in-law had given evidence against him. But his repetition of it before the principal assistant commissioner is distinct and consistent, and besides this, he made oral confession to the witnesses Biria, Dheepsee, Neoree, Pandree, and Kuhalee. Of these witnesses, Dheepsee is a woman with whom he cohabits, and Pandee is his daughter-in-law, wife of the prisoner Hagra, and co-wife with the deceased.

That the prisoner Hagra, assisted at the burial of his wife, knowing that she had been murdered by his father, is proved by his confession before the principal assistant, and by the evidence of the witness Biria. The burial must have occurred after the visit of the Burwa police-officer, but this circumstance does not necessarily alter the character of the prisoner's offence, for it appears that the crime was concealed from the officer; and the prisoner Tohila has stated that hush money had been paid to other parties.

There are some difficulties in this case, but on the whole, I consider that the proof against the prisoners is sufficient, and I therefore concur with the jury in finding the prisoners guilty as charged.

Wherever any shade of doubt exists an irrevocable sentence is inexpedient, and under the circumstances above set forth, and the remarkable expression in the prisoner Tohila's first confession that he had lost heart and hope of life, and that his two sons were guiltless, a doubt intrudes. The prisoner is an old man, and his confession may be more than the truth. The principal assistant has informed me that the prisoner had before him evinced the utmost anxiety to screen his son, and to take on himself the whole burden of the offence.

I would recommend that the prisoner Tohila, be sentenced to imprisonment for life with hard labor in irons, and that the prisoner Hagra, be sentenced to imprisonment for five years with hard labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) On referring to the papers of the case, we find that when information of the woman's death was first reported at the thannah, an enquiry was made on

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the spot by the mohurrir who, after several days investigation, reported to the magistrate that he could make nothing of it. The magistrate then deputed the darogah to carry on the enquiry, and he reports that two of the females of the prisoner Tohila's family, his wife and one of his daughters-in-law, told him that Tohila himself had informed them on the day of the death that he had murdered the deceased. Tohila was, on this information, apprehended, and at the first day's examination denied any knowledge of the murder; but being kept in custody he, on the following day, confessed his guilt. Except the repetition of his mofussil confession in the presence of the magistrate there is nothing to criminate this prisoner, not a single circumstance in the evidence before us connects him with the crime as the perpetrator of it. We have, therefore, to consider whether we can so fully trust to these confessions as to convict the prisoner upon them alone. Before the sessions court, he states that he was subjected to ill-treatment to make the confession and tutored by the darogah to repeat it. His witnesses could not substantiate the fact of ill-treatment, but the clue, first obtained by the darogah from the females of the prisoner's family, is open to suspicion, having never been mentioned by the mohurrir, it only affords a colour to the darogah's apprehension of Tohila. His denial at first, and subsequent confession, after having been in the darogah's hands for a day and night, is calculated to throw mistrust over the proceedings of the police in procuring it, and the reason assigned by Tohila for admitting his guilt on the second day, namely, that he was weary of life, carries no conviction to our minds, while there is little doubt that if the prisoner's confession had been unfairly procured in the mofussil he would be easily induced to repeat it when first taken before the magistrate, as he was still under the influence of those who had intimidated him. Feeling that a conviction, under these circumstances, could not be justified on the ground of a full and perfect reliance being placed on the genuineness of the confession before us, we must acquit the prisoner Tohila. There is even less reason for doubt in the case of the prisoner Hagra, who, though appearing to have buried the corpse of his wife, did not know at the time under what circumstances and by whose hand her life had been taken. It was not until examined by the magistrate, when first taken before him, that he mentioned having heard from his father that he had killed the deceased. This was not mentioned by him in the mofussil, and was only said after Tohila had confessed his guilt. It is clearly the consequence of his father having confessed to the crime before the police, and equally admits of doubts of its veracity. Both the prisoners are therefore acquitted.

PRESENT:

H. T. RAIKES AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT

versus

GADUL NESHO.

Dinagepore.

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December 7.

Case of GADUL NESHO.

Conviction and sentence of seven years' imprisonment with labor and irons confirmed. The prisoner had confessed before the magistrate.

CRIME CHARGED.—Culpable homicide of Angerbee Bundee, his wife.

CRIME ESTABLISHED.—Culpable homicide of Angerbee Bundee.

Committing Officer.—Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr. James Grant, sessions judge of Dinagepore, on the 31st August, 1855.

Remarks by the sessions judge.—The prisoner confessed to having caused the death of his wife by sundry blows and a kick. He, in the first instance, tied one bit of rope round the neck and the other portion of it to the roof of the house and called the neighbours, stating that he found her suspended and cut her down. In his defence before me he stated that he struck his wife during a quarrel, went to look for his cattle, found her on his return suspended, and cut her down; urging that he was beaten by the police into confessing as above, and that he told the same story before the magistrate, because the thannah jemadar was with him. I see no reason whatever to doubt the genuineness of the foujdarry confession, and it is clear that the beating was continued and cruel, as it appears from the evidence of the native doctor that there were marks of the severe blows on the back, waist and left side of the head and great internal congestion of blood near the spleen, &c. which he thought was probably caused by a kick on the side. The native doctor found no trace of a mark on the neck, spoken by some of the witnesses, from which the inference is that some slight mark was made on the neck by the prisoner to support his first story that his wife had hung herself. The *futwa* of the law officer convicted the prisoner and I concurred.

Sentence passed by the lower court.—To be imprisoned with labor and irons for seven years.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We concur with the sessions judge, as to the genuineness of the confession made by the prisoner before the magistrate, and, from the circumstances detailed by the witnesses, entertain no doubt that the prisoner beat his wife cruelly from which injuries she died. We therefore see no reason to interfere with this conviction.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT

versus

MOOTHOR SEN.

Midnapore.

1855.

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Case of MOTHOOR SEN.

Prisoner convicted of having belonged to certain gangs of dacoits. His own confessions proved so much of the charge against him; sentence transportation for life.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Mr. C. H. Keighly, assistant general superintendent and joint-magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 8th October, 1855.

Remarks by the sessions judge.—The prisoner confesses to his having participated in ten separate gang-robberies, before the assistant superintendent, and these confessions he affirms in this court.

The truth is corroborated by the papers noted in the margin,* together with the record of two trials held in this court in August, 1843 and January, 1854, respectively. In the former the prisoner was sentenced to seven years' imprisonment and in the latter to sixteen years' imprisonment in banishment.

I convict the prisoner on his confession of being a dacoit by profession, and of having belonged to a gang of dacoits, and recommend that he be sentenced to imprisonment for life in transportation beyond sea.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoner's own confessions prove beyond doubt that he belonged to certain gangs of dacoits named and described by him. We therefore convict him of so much of the charge and sentence him to transportation for life beyond sea.

* *Nuthee* No. 541, dacoity in the house of Peetumber Doss, August 18th, 1852.

Nuthee, dacoity in the house of Heenoo Pather *Sukhee* 5th April, 1853.

PRESENT:
B. J. COLVIN, Esq., *Judge.*

GOVERNMENT
versus
ISHUR BAGDEE.

Hooghly.
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Case of ISHUR BAGDEE.

The prisoner on conviction of having belonged to a gang of dacoits, was sentenced to transportation for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Mr. E. Jackson, commissioner for the suppression of dacoity.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 28th of September, 1855.

Remarks by the additional sessions judge.—The prisoner was arrested in lieu of a man of the same name, against whom a warrant was out from the dacoity commissioner. Both the men were known to the dacoity commissioner to belong to the same gang of dacoits, known as the Dhuneakhali gang, several members of this gang were in the service of one Mangovind, the prisoner was so, but his name-sake was not. A warrant was issued to arrest certain of the Dhuneakhali gang, which becoming known to Mangovind's retainers, those of them who were members of the gang took to flight. The prisoner though not named in the warrant, took alarm and absconded. After a space, the darogah discovered him, and thinking from his having been in Mangovind's service, that he was the Ishur Bagdee for whose arrest a warrant was out, he proceeded to apprehend him. On his being sent to the dacoity commissioner it was ascertained that though arrested by a mistake, the prisoner was a dacoit of the Dhuneakhali gang, that his name-sake was so too, and that both of them had been denounced by one of their former associates who had become an approver.

The prisoner arrived on the 12th July, 1854, and on his being interrogated the next day, he admitted his guilt and gave an account of two different dacoities which he had committed with the Dhuneakhali gang, of these two dacoities the approver witness No. 1, had three months previously, given a full detail, and had named the prisoner as one of the gang of dacoits. That account tallies with the account given by the prisoner in all but the name of the village where the crime was perpetrated. But Ramkishtopoor, as one calls it, and Rashmanpoor, as it is designated by the other, are in fact but one village composed of the lands of two, parts of which are called by one name, and parts by the other. There is therefore no real discrepancy between the two statements of the prisoner and the approver respectively, while the close coincidence in the relation of the two, leaves no doubt that both are describing the same thing.

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In the names too of their associates the prisoner and the approver are agreed in respect to four persons, and this similarity, in the description of the affair and of the actors in it, is the best proof, that the account of each is a genuine one and in conformity with the facts.

I shall not suppose it possible that the prisoner's confession was fabricated by the dacoity commissioner, whose attestation it bears, which is the defence the prisoner makes. It is moreover a well known fact that members of any gang of dacoits, of which other members are in custody, are, as soon as they arrive at the dacoity commissioner's office, strictly excluded from all intercommunication with their former associates, so that fabrication of the confession being out of the question, and collusion and communication with the approver equally so, we are driven to the adoption of one of two conclusions; either that the prisoner has succeeded, without knowing any thing of the real circumstances in inventing a story, identical with the real facts, or that he did verily commit the act of which he has given so faithful a description. I have no hesitation in adopting the last of the two conclusions as the only probable one, and regarding the guilt of the prisoner as beyond doubt, both upon the testimony of the approver and his own confession, I would convict him of having belonged to a gang of dacoits and transport him for life.

I append for facility of comparison translations of the approver's deposition and of the prisoner's confession of the Ramkishtopore dacoity.

Deposition of Bishonath Kowra approver, witness No. 1.

Being interrogated says, I have known the prisoner for a length of time. I committed with the prisoner a dacoity in Ramkistopore, in the house of a Mussulman and another in Digra in the house of a Brahmin, by name Gour Bhattacharjea. I have committed no other dacoities with the prisoner, but these. The particulars of the Ramkistopore dacoity, are these. It happened three or four years ago, the sirdar was Sumboo, I can't say who the *ghuttuck* was; two or three days before the dacoity, I went at 12 o'clock to drink at Gunga Sooree's shop near Neemdanga. Sumboo came there for the same purpose, seeing me, he said that Suleem Suhana of Ramkishtopore, had lots of money and that he had secreted it, for fear of dacoits, in the house of his daughter's husband's father Muttecoollah, and he proposed that we should commit a dacoity there. I agreed, Sumboo then said that the dacoity would take place the night after next, and that I was to inform my gang accordingly, and bring them on the night appointed to Gunga Sooree's shop, where Sumboo promised to meet us. I intimated the matter to my gang as soon as I came home, and told them where we were to assemble. At evening of the day of the dacoity, I left home

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for Gunga Sooree's shop where I found the prisoner and Sumboo seated; by degrees all the other dacoits arrived, taking a *kullaree* from the Sooree's shop and cutting some bamboos from a clump of them that was there, we prepared our *chhurs* and clubs, and obtaining some rags and oil from the Sooree, we also made up some *mussals*. At 9 P. M., we all rose and went to a fallow bit of land near the house we intended to attack, where we sat down and made *poojah*, at twelve we went up to the house: the house was surrounded by a wall, and there was a mat *jhamp* at the sudder door with a bamboo placed crossways against the wall on both sides of the *jhamp* to keep it secure, it could not be opened from outside. Sreemunto Dooley scaled the wall and unfastened the *jhamp*, sentries being placed, the gang went in the premises; Sumboo and Sreemunt were the sentries; every one else went inside, the *mussals* were lit, the owner of the premises was asleep in the verandah of the south house, he was seized and tied up with a rope which was found on a plough, we demanded his money. Pettamber Kowra and Bishta Kowra remained in charge of him. The rest of the dacoits went into the east house, after kicking open the door, women were inside it, we took their jewels, breaking open the *pittarahs*, we took the clothes and the brass vessels we found in them, we got no cash; after this we left, the owner of the house was left tied up after we left, the villagers began screaming. Having gone three quarter of a *coss* we were searched, our plunder came to 28 or 30 rupees in value; coming to Gunga Sooree's shop, we lit a lamp and divided the plunder; I got a piece of a *hanslee*, two silver *majoolees*, a *taveez* and a piece of cloth. Ishur, the prisoner, received a *jama* and *saloo* cloth and a bit of silver *hanslee*, the rest got also bits of broken *hanslees* and who got any of the cloth I cannot say, none of my set were arrested. There were in this dacoity Ishur Bagdee, the prisoner, Sumboo Sirdar, Pittumber Kowra, Madhub Tatee, Soobul Gwalla, Doorga Koloo, Sreemunt Dooley, Bishta Kowra, Panchoo Dooley, Boona Dooley and myself, we were in all fifteen or sixteen.

Q.—Do you know any thing of the Bar-Ramkistopore dacoity?

A. I know nothing of it, I was not concerned in it, but the prisoner told me he was going upon it and he asked me to come too, but he did not call me when he went, so I did not go.

Q.—Was it on your information that the dacoity commissioner issued a warrant for the arrest of Mangovind's servants?

A.—Yes.

Q.—Whom of Mangovind's servants did you denounce to the dacoity commissioner?

A.—Ishur Bagdee, the prisoner, Suroop Surdar Bagdee, Brijjohurree Bagdee, Tara Bagdee and Kasheenath Bagdee. I do not recollect if I named any others.

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Q.—Are all these Mangovind's servants?
A.—Yes.
Q.—Is there any other Ishur in Mangovind's service besides Ishur the prisoner?
A.—No.
Q.—Do you know any other Ishur Bagdee, besides the prisoner?
A.—Yes, I know Ishur Bagdee of Bunyahundda.
Q.—Where does Ishur Bagdee the prisoner live?
A.—In Gatan, so I heard from himself.
Q.—Has Ishur Bagdee of Banyahundda ever been engaged with you in any dacoities?
A.—Yes, in a dacoity in Miggapore in the house of a Mussulman.
Q.—Was Ishur Bagdee of Banyahundda in the Ramkistopore dacoity?
A.—No.
Q.—Did you name both Ishurs in your confession to the dacoity commissioner?
A.—Yes.
Q.—Was Ishur of Banyahundda in Mangovind's service?
A.—No.
Q.—How far is Banyahundda from Gatan?
A.—Two *coss*.
Q.—How far are Rashmanpore and Ramkistopore?
A.—They are adjoining villages.
Q.—Did you name the prisoner in Ramkistopore dacoity?
A.—Yes.
Q.—How far from your house does the prisoner live?
A.—One *coss*.
Q.—Were you acquainted with the prisoner before the Ramkistopore dacoity?
A.—Yes, I have known him for years.
Q.—How long prior to the Ramkistopore dacoity, did you know the prisoner in his character as a dacoit?
A.—About six months before.
Q.—Did the Bar-Ramkistopore dacoity, of which the prisoner spoke to you, occur before, or after the Ramkistopore dacoity?
A.—I cannot recollect; but adds immediately that the Ramkistopore dacoity was the first of the two.
Q.—Whom did you give notice to, regarding the Ramkistopore dacoity?
A.—I told Mahdub Tatee, Bishta Kowra, Sreemunt Dooley, Soobul Gwalla and Pittumber Kowra, and I told Sreemunt to inform the others.
Q.—Who informed the prisoner?
A.—I did.

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Q.—Was the prisoner in any one's service at the time of the Ramkistopore dacoity?

A.—He was in Mangovind's service.

Q.—In what place did you inform the prisoner of the Ramkistopore dacoity?

A.—The prisoner was going to in Neemdanga, I met him on the road and informed him.

Q.—How far is Mangovind's house from Gatan?

A.—One and a half *coss*.

Confession of Ishur Bagdee made on the 13th July, 1854, to the dacoity commissioner.

About two or three years' ago I committed a dacoity in the house of a Mussulman in the village of Ramkistopore, half or three quarters of a mile west of Dusghurra. The particulars of this dacoity are as follow: I cannot say who was the *ghuttuck* on this occasion One day Bishonath Kowra of Aghapoor told me that a dacoity was to be committed in a Mussulman's house in Ramkistopore, where we should obtain valuable booty, and he named a day on which all the dacoits were to assemble at Neemdanga, close by a Sooree's shop. We all went to the place of rendezvous one by one on the appointed day.—This dacoity happened after the Morabund affair. *Chhurs* and *lattees* which had been placed in a tank, were taken up, and a few others were prepared. After that, we started from that place, making *Kalee poojah* and preparing *mussals*, on a cut rice-field, south-west of the house intended to be attacked, we rose and went up to the premises It was enclosed by a wall with a narrow thatch on it. There were a large thatched house and a cooking shed inside. How an entrance was effected and the sudder door opened, I do not recollect. After the door had been opened, sentries were posted, and the dacoits went in. I and some others stood sentries. Some of the dacoits lighted the *mussals* and opening the door of the large house inside, with a *koolharee*, they caught the owner inside the room and handled him roughly to induce him to show his money, others were engaged in the work of pillage, breaking open boxes and *pittarahs*, and plundering clothes and jewels which the women of the house had on, such as *huslees*, *&c.*, The owner would not tell where his money was, and as the villagers shouted, we could not stay longer and decamped, we went towards the west and were searched at Neemdanga by the side of a *Sooree's* shop. The plunder consisted of a silver *huslee*, a few silver amulets and *joomkas*. Division was made where the search was, every one went off to his own place after the division. I got a silver *joomka* and three silver *maddoolees*, I melted them and had made a neck-chain, none of us were arrested. I cannot say if there was any investigation.

Q.—Who went with you in this expedition?

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A.—Peetum Harree, of Dusghurra, thannah Dhunneakhali, Nowcowree Koloo of Aghapoor, Soobul Ghose and Bishoonath Kowra, Kalagopal Bagdee of Radanuggur, Sreerampore, Bhooto Bagdee of Atpara, Kumnah Suleemabad, zillah Burdwan, but I am not sure if he came; I think he did, Gosaeedoss Sooree of Bar Tickree, Kishto Chunaree of Shabazar who came with Kala Gopal, Byrub Bagdee of Radhanuggur, Sreerampore, and myself, I do not recollect the names of any others

Remarks by the Nizamut Adawlut—(Present Mr B J Colvin) I convict the prisoner on his own confession, which has been duly proved to have been voluntarily made before the commissioner for the suppression of dacoity, of having belonged to a gang of dacoits, and sentence him to imprisonment for life in transportation beyond sea

PRESENT

B J COLVIN, ESQ., *Judge*.

GOVERNMENT

versus

MOTEE SIRDAR (No 1,) AND KOOBEER KHAN (No 2)

Rajshahye. 1855. December 8. Case of MOTEE SIRDAR and another. Appeals rejected.

CRIME CHARGED.—1st count, dacoity in the house of Ramkisto Shah, in which property to the value of rupees 288, 2 annas and 1 pie was plundered; 2nd count, being accessaries before and after the fact, 3rd count, knowingly receiving and keeping in possession plundered property acquired by the above dacoity, and 4th count privity to the above crime.

CRIME ESTABLISHED—No 1, knowingly receiving property plundered in dacoity and No 2, being an accomplice in dacoity.

Committing Officer.—Baboo Gopal Lall Mitter, deputy magistrate of Nattore

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 13th August, 1855.

Remarks by the sessions judge—This was a simple dacoity, committed by a gang of ten or eleven men in the house of the prosecutor, who is a resident in the Chowgong thannah jurisdiction, none of the dacoits were recognized The next day, the darogah of thannah Nattore (who was proceeding in a palanquin to investigate into a case of dacoity that had occurred in his jurisdiction) met the prisoner, No. 1, with three others, who, however, ran away, and No 1, was seen to throw down a bundle which, on being opened, it was discovered contained a quantity of silver female ornaments; and after some hesitation he admitted they had been obtained by dacoity, but not in the Nattore

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darogah's jurisdiction. This was all that they could get out of him, or that he was heard to say; and eventually it turned out that the property belonged to Ramkisto Shah and his son-in-law, whose house had been *dacoited* on the night of the 11th of April. Suspicion falling on No. 2, he was apprehended, and confessed before the two darogahs of Chowgong and Nattore that he was concerned in the dacoity; that the ornaments obtained on the occasion were made over to No. 1, to sell, and that he heard he had been apprehended with them on him, thus confirming the verbal admission made by No. 1, who, there can be no doubt, was the *facile princeps* in the affair. The apprehension of No. 1, with the property which he had thrown down, was fully proved by the darogah, one of his bearers, who was the first to seize No. 1, (when he was attempting to make of with his companions) and four other witnesses, Nos. 15, to 18. The property found in the bundle was fully identified as belonging to Ramkisto and Ramdhun, his son-in-law, and there was a *memorandun* or *hatchitta*, relating to some cotton among the other articles, which gave the first clue to where the property came from. The confessions of No. 2, both before the police and the deputy magistrate were fully proved to have been voluntary; and on this evidence, I have convicted No. 1, on the 2nd count, and No. 2, of being an accomplice in dacoity, and have sentenced them as below. To the bearer, a little man, and smaller than the prisoner No. 1, I have directed the payment of a reward of 10 rupees for the assistance given by him to the police, and they deserve some credit for the apprehension of these two men, who, there can be very little doubt, were professional dacoits, and had long been suspected though the fact of bad livelihood was not proved by the witnesses named in the calendar The trial was held under Act XXIV. of 1843 and the Court's Circular Order of the 10th July, 1844.

Sentence passed by the lower court.—No. 1 to 5 years and No. 2 to 7 years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) The Court, having examined the proceedings, see no reason for interference. They therefore reject the appeals of both prisoners.

PRESENT:
B. J. COLVIN, ESQ., *Judge*.

GOVERNMENT AND MUSST. JHULEAH
versus
SHEIKH YAD ALLEE (No. 2,) GUNPUT PANDEY (No. 3, APPELLENT,) AND SHEIKH KARAMUT (No. 4, APPELLENT.)

Bhaugulpore.
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Case of GUNPUT PANDEY. and others.
Conviction affirmed on appeal.

CRIME CHARGED.—Culpable homicide of Hanoomanee Goala, husband of the prosecutrix, or beating him severely, from the effects of which he died.

CRIME ESTABLISHED.—Culpable homicide of Hanoomanee Goula, husband of the prosecutrix.

Committing Officer.—Syud Zyneoodeen Hossein, deputy magistrate of Mudehpoora

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 4th August, 1855.

Remarks by the sessions judge.—This was a case of homicide which occurred on the 30th of June last. The prisoners (Nos. 3 and 4,) were zilladars connected with the Inamputtee factory and the deceased, a ryot; they were riding over the grounds on the day in question when they came up with the deceased and directed prisoner No. 2, to demand *seidha* from him in consequence of a cattle trespass; he refused, and No. 3, desired Sheikh Yad Allee (No. 2,) to beat him, which he did once with his hand; the other two prisoners who were on horseback then beat him across the throat and eyes with their whips, and he fell down; rain coming on, the whole party took refuge for some time in a shed, and the deceased became insensible, was carried home and died the next morning. The body was two much decomposed to admit of medical exmination, but it is proved he was perfectly well before the ill-treatment and became insensible immediately after it, and no doubt exists of its having caused his death. The prisoner Yad Allee (No. 2,) confessed before the darogah and magistrate, and although he pleaded not guilty in court, admits his share of the guilt which he attributes entirely to the orders of the zillahdars. The other prisoners deny throughout, but offer no defence nor do their witnesses bring forward any extenuating circumstance.

The jury convict and I agree, but holding the Peadah Yad Allee as far less guilty, both in the nature of his assault and as acting under orders, I sentence him lightly, inflicting a heavier punishment upon the others for their brutal conduct.

Sentence passed by the lower court.—No. 2, to one and half years' imprisonment without irons and to pay a fine of 50 rupees

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on or before the 3rd September, 1855, or in default of payment to labor until the fine be paid or term of sentence expire, and Nos. 3 and 4, each to 5 years' imprisonment with labor and without irons.

Remarks by the Nizamut Adawlut.—(Present : Mr. B. J. Colvin.) Prisoners, Nos. 3 and 4, have appealed. They allow that the deceased was beaten and died, but deny that they beat him. The witnesses for the prosecution, however, implicate them, and what they urge in their defence has not been proved. I reject their appeals.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND MUSST. TOOAH BIBI

versus

FIRST PARTY BHAWUDDEEN (No. 1,) SUNNA ALLEE (No 2,) FUTTEH MAHOMED (No 3,) FEYZOO SHARUNG (No 4,) MAHOMED FAZY (No. 5,) KOMUR ALLEE (No 6,) KOLLUMUDDY (No 7,) MOUSAD (No 8) MAHOMED HOOSUN (No 9) SECOND PARTY—MAHOMED HANEEF (No 10*) KOROMUDDY ALIAS KOMORALI (No 11,*) GHOLAM RUSSOOL (No. 12,*) MOHUBUT ALLEE (No 13,) SHUMSHEER (No. 14,*) KADIRBUX (No 15*) SULTAN BEOPARREE (No. 16,*) ASSAN (No 17*)

Tipperah.

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Case of BHAWUDDIN and others

The prisoners were convicted of affray attended with homicide, sentence passed by the sessions judge considered too lenient.

CRIME CHARGED Affray attended with the murder of Goom Pulwan and wounding Bhawuddeen.

Committing Officer —Mr F. B Simson, officiating joint-magistrate of Noacolly.

Tried before Mr E Radcliffe, officiating sessions judge of Tipperah, on the 6th July, 1855.

Remarks by the officiating sessions judge—The cause of reference is the inadequacy of the punishment that I can inflict when, coupled with trial No 2, for the month of May, the circumstances connected with which are so intimately concerned, that I deem it necessary to lay both cases before the Court for the purpose of the award of a consolidated sentence against prisoners Nos. 1, 2, 7, 8, and 9.

The prosecutrix state that on a Wednesday in Bysack her husband, Goom Pulwan, went to cultivate some land in Chur Durbesh; that she was told by a boy that he had been wounded

* Acquitted by the lower court.

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Case of BHAWUDDIN and others.

in an affray by Sunna Allee, &c.; that on going to see him she found her husband breathing; that his skull was fractured, his nose smashed and teeth broken, and being unable to drink, he died in about an hour; that she was informed by the by-standers that Bhawuddeen prisoner No. 1, Sunna Allee, prisoner No. 2, Futteh Mahomed, prisoner No. 3, Fayzoo Sharung, prisoner No. 4, Mahomed Fayz, prisoner No. 5, Komur Allee, prisoner No. 6, Kollumuddy, prisoner No. 7, Mousad, prisoner No. 8, and Mahomed Hoosun, prisoner No. 9, had killed her husband by order of Kishenkanth the naib of Ramkanye Bose, the Tahood Surbarakar of Joogdeen; that the affray was caused by her husband as ryot of Hasim Sajawul, taking land in Chur Durbesh from the Sajawul instead of from the Surbarakar.

The evidence of the eye witnesses noted in the margin,* proves that Goom Pulwan was quietly sowing his rice-field in Chur Durbesh, when prisoner No. 10 (acquitted) called him and said Sunna Allee's people are approaching armed with sticks, when the prisoners No. 1 to 9 came up, threw Goom Pulwan on the ground, struck him on the head with latties, and then ran off, that the disputed land is said to have been according to witnesses Mahomed Gazee, No. 3, and Suddoo *alias* Sudderuddin, No. 4, seven years in the deceased's possession.

* 1, Monoo.
2, Amjad.
3, Mahomed Gazee.
4, Suddoo.
6, Nymuddin.
7, Panch Couree.
8, Bhola Gazee
9, Haydur Allee.
10, Dhurmo Doss.

The prisoners plead *not guilty:* No. 1, declares that as he had been injured by Hashim's party he could not have assaulted Goom Pulwan.

Sunna Allee, prisoner No. 2, pleads sickness, and that from some disease of the *scrotum,* he could not be engaged in an affray.

Futteh Mahomed, prisoner No. 3, was at his house situated on the disputed land, the remainder 4 to 9 endeavour to prove *alibis.*

Bhawuddeen, prisoner No. 1, examines Somee, witness No. 19, Hussun Allee, witness No. 21, Jola Ghazee, witness No. 25, Tujumuddin, witness No. 26, Diam, witness No. 27, and Bux Alli, witness No. 28, who say they *went for water* to prisoner's house and found that the prisoner had been wounded, such evidence in my opinion tells more against than for him.

Sunna Allee, prisoner No. 2, produces Wazuddin Meajee witness No. 31, Puttan Sarung, witness No. 32, Alli Putwarree, witness No. 33, and Allee Chowkeedar, witness No. 34, who state that they found him sick the day of the affray and that he told them he had taken medicine. The civil assistant surgeon, who examined the prisoner's person at the request of the joint-

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magistrate, deposes there was nothing about the man to prevent his taking an active part in the affray.

Futteh Mahomed, prisoner No. 3, Komar Allee, prisoner No. 6, and Mahomed Hoosun, prisoner No. 9, call no evidence; Busser Turdel, witness No. 59, a cousin, and Sudderuddeen, witness No. 61, endeavour to prove that Feyzoo Sharung, prisoner No. 4, was at his house a short distance from the deceased's field but, in my opinion, fail. Sudderuddeen Chowkeedar, witness No. 65, and Amjad Allee, witness No. 66, are called to prove that Mahomed Fayz, prisoner No. 5, was at Chur Dully, but their evidence is not worthy of reliance; Kollumuddy, prisoner No. 7, called one witness who knows nothing; Ameerooddin, witness No. 88, and Darris, witness No. 90, attempt to prove that Mousad, prisoner No. 8, was at Chur Seddhee at the time the affray occurred, but Darris, witness No. 90, is prisoner's brother-in-law, and of course, a very interested witness.

The civil assistant surgeon is of opinion that the deceased's death was caused by the fracture of the skull, and that the injury was inflicted by a blow of some heavy weapon, such as a *lattee*.

The law officer is of opinion, and in his *futwa* I concur, that the crime established is affray attended with culpable homicide against Bhawuddeen, prisoner No, 1, Sunna Allee, prisoner No. 2, Futteh Mahomed, prisoner No. 3, Feyzoo Sharung, prisoner No. 4, Mahomed Fayz, prisoner No. 5, Komur Allee, prisoner No. 6, Kollumuddeen, prisoner No. 7, Mousad, prisoner No. 8, Mahomed Hoosun, prisoner No. 9, and, therefore, in conformity with Clause 6, Section 4, Regulation IX, of 1831, have passed, but not issued, sentence of five years' imprisonment with labor in irons against Futteh Mahomed, prisoner No. 3, Feyzoo Sharung prisoner No. 4, Mahomed Fayz, prisoner No. 5, and Komur Allee, prisoner No. 6, and would recommend the same amount of punishment against Bhawuddeen prisoner No. 1, Sunna Allee, prisoner No. 2, Kollumuddeen, prisoner No. 7, Mousad, prisoner No. 8, and Mahomed Hoosun prisoner No. 9, implicated in the 2d trial should the Court not consider they merit the consolidated punishment I think them deserving of.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) The Court consider that the fact of an affray having taken place, in which Goom Pulwan was killed and Bhawuddeen was wounded, is satisfactorily proved. As however the sessions judge has released those who formed the second party, it is unnecessary to consider the case as regards them. He has said in his statement of acquittals that the evidence against them was far from conclusive without showing how it failed to be so.

With respect to the parties now before the Court, it is clear

from the evidence, the purport of which is given in the sessions judge's letter, that they were all engaged in the affray in which Goom Pulwan was killed. Of this crime we therefore convict them. The sessions judge has, in our opinion, passed too lenient a sentence upon Nos. 3, 4 5, and 6, but as we cannot interfere with it in appeal and as the prisoners Nos. 1, 2 7, 8 and 9, regarding whom he has made a reference, were not more guilty than them, we sentence Nos. 1, 2, 7, 8 and 9, to five years' imprisonment with labor in irons.

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Case of BHAWUDDIN and others.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND USEEMAH BANOO

versus

MAHOMED HOSSUN (No. 18,) ALLI (No. 19,) MOUSUD (No. 20,) KOLLEEMUDDEEN (No. 21,) BHAWUDDEEN (No. 22,) SUNNA ALLEE (No 23)

Tipperah.

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Case of MAHOMED HOSSUN and others.

The prisoners accused of murdering a lad that it might appear that he had been killed by their opponents in an affray, acquitted for want of proof that the crime had been committed.

CRIME CHARGED.—Nos 18 to 21, wilful murder of Fezoo, and Nos. 22 and 23, with being accessaries before and after the fact to the murder of Fezoo.

Committing Officer.—Mr. F. B. Simson, officiating joint-magistrate of Noacolly.

Tried before Mr. E. Radcliffe, officiating sessions judge of Tipperah, on the 6th July, 1855.

Remarks by the officiating sessions judge.—As all the prisoners with the exception of Mahomed Hossun (prisoner No. 19,) are accused in the affray attended with the culpable homicide of Goom Pulwan the punishment due to both offences is far beyond my competence, I therefore request the Court's orders to a consolidated sentence and hence the cause of reference.

This is the most diabolical murder that ever came under my notice, and should my remarks extend further than the Court may consider necessary I trust that, under the circumstances, they will excuse me.

The prosecutrix states that on her husband's death she became the servant of one Waris Meer, that she had by him a son named Fezoo, who at the time of his death was about sixteen or seventeen years of age; that Bhawuddeen, (prisoner No. 22,) who is Waris's nephew, took her son into service in Poos last; that in Phalgoon, the boy paid her a visit and gave her 8 annas, that, afterwards she heard her son had been killed at the end of Bysack in the above named prisoner's affray, that she went to Chur Durbesh, and at Companygunge saw her son's body, but not

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so close as to examine it, that, she went to the darogah who shewed her the body, that it had the appearance of being strangled; on the chest there were marks of violence and the skull and left arm fractured. She then heard from the Chur Derbesh people that her son had not been engaged in the late conflict, and immediately suspected that Bhawuddeen (prisoner No. 22,) had murdered her son in order to throw the blame on the side of Hashim Sazwul.

All the prisoners in this court plead *not guilty*.

The only eye-witness who was first brought in as a prisoner on being offered a pardon, under Regulation X. of 1824, by the magistrate, and who in conformity with Circular No 4, dated 2nd January, 1854, was pardoned, deposed, that having heard of the affray at 9 A. M. on Wednesday, 20th Bysack, he went there and having seen what was going on returned home; that he heard Goom Pulwan had been killed; that about noon Fezoo Chokra took a basket of chillies for sale at Bux Allee Haut, and saw him return in the evening to Bhawuddeen's house; that at about 8 P. M. the said Bhawuddeen (prisoner No. 22,) came to witness's house, called him, and took him to his own; that he there saw prisoners Mahomed Hossun, (No. 18,) Alli (No. 19,) Mousad, (No. 20,) Kullumuddeen (No. 21,) consulting together, and saying that there is no other means of evading justice in Goom Pulwan's case, than by killing some one. On witness not acceding to the proposition, Alli (prisoner No. 19,) said he would constitute him a defendant in the affray case, and menaced him in every way that being the ryot of Sunna Alli (prisoner No. 23,) he, at length, consented, it was then agreed that they should murder Fezoo, and throw the body into the house of Mahomed Hossun (prisoner No. 18); that prisoners Nos. 19 to 21, took Fezoo with them under the pretence of bringing in some ploughing implements from Chur Durbesh to the house of Mahomed Hossun; that he and Mahomed Hossun followed; that the six men then entered and sat down. That Mahomed Hossun (prisoner No. 18,) Alli (prisoner No. 19,) Mousad (prisoner No. 20,) and Kollumuddeen (prisoner No. 21,) whispered together, when prisoner No. 19 gagged Fezoo, Mousad (prisoner No. 20,) seized him by the throat, and Kullumuddeen, (prisoner No. 21,) by the thighs and arms, &c.; that Mousad (prisoner No. 20,) then struck him on the head with a bludgeon two and half or three cubits long and eight or ten fingers thick, which literally smashed the skull, and Alli (prisoner No. 19,) twisted the boy's left arm and broke it.

We now come to the circumstantial evidence. Witness No. 14, Ackbur, and witness No. 15, Joynuddeen saw Fezoo at two *dunds* before night of the day of the occurrence at Bux Alli's Haut selling chillies; witness No. 15, Joynuddeen, saw about four or six *dunds* of the night Sunna Alli (prisoner No. 23,) at

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his own house, after some conversation Sunna Alli (prisoner No. 23,) returned home with Fezah Gazee *alias* Fezoo, (witness No. 1,) and shortly afterwards the night being moonlight, witness saw from his door, Mahomed Hossun (prisoner No. 18,) Alli (No. 19,) Mousad (No. 20,) and Kollumuddin (prisoner No. 21,) and witness No. 1, and Fezoo Chokra, accompanying them; Jan Mahomed (witness No. 16,) saw Fezoo on the day of occurrence near Companygunge; Moteeoollah (witness No. 17,) saw him at four to six *ghurries* before night going from Chur Durbesh with a basket of chillies towards Bux Alli's Haut; Omed Alli (witness No. 18,) saw Fezoo ploughing at 9 A. M. and at half-past ten or thereabouts saw *lattyals* approach Goom Pulwan when Fezoo left off ploughing and went away, and afterwards saw him going in the afternoon with a basket of chillies in the direction of Bux Alli's Haut; Kassim Chowkeedar (witness No. 19,) searched at four *ghurries* of the night the house of Mahomed Hossun (prisoner No. 18,) and found nobody in it, but the next morning discovered the corpse of Fezoo, in an eastern apartment; witnesses Nos. 20 and 21, are the *amlah* on the part of Ram Kanye Bose the *tahood surburakar;* Kalleebhoirub Raha (witness No. 20,) deposes that Kishenkant Kylia, tehsildar, wrote him a letter on the 20th Bysack informing him that an affray had taken place in which Goom Pulwan, Bhawuddin (prisoner No. 22,) and Sunna Allee (prisoner No. 23,) &c. were concerned and that Goom Pulwan had been killed; that at four *ghurries* of the night on the 20th Bysack, *remaining, i. e.* Thursday morning, Sunna Allee (prisoner No. 23,) reported there had been an affray in which Fezoo Chokra had been killed; that the police was informed of the circumstance by letter. Knows full well that the lad was killed in order to diminish the guilt of the party in which Bhawuddin (prisoner No. 22,) &c., were accused of affray, this testimony is corroborated by Juggobundo Bundopadiah (witness No. 21.)

The civil assistant surgeon examined the body and was of opinion that death had been caused by the fracture of the skull, on afterwards being informed by the magistrate that there were suspicions of the boy being strangled the body was exhumed, but it was too decomposed to admit of minute examination. The eyes were observed on the first examination to be starting from their sockets and the tongue clenched between the teeth, and protruding from the mouth and the left arm said to have been broken by a twist more than by a blow.

Mahomed Hossun (prisoner No 18,) at the thannah and before the magistrate confesses to the following, and both these confessions are proved to have been voluntary, that he is the ryot of Kollumuddin (prisoner No. 21,) and Bhawuddeen (prisoner No. 22,); that on the 20th Bysack he went to sow rice in Durbesh about 10 A. M., that Fezoo Chokra, Omed Allee, &c.,

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were sent by him there; that there were from thirty to fity men on each side—that he saw the affray but concealed himself; that about 4 or 5 P. M. he saw Fezoo at the house of Bhawuddin (prisoner No. 22;). That some time after, Fezoo went to sell chillies at Bux Alli's Haut; that in the evening about four or six *dunds* he returned and eat his dinner at his master's house, and he (Mahomed Hossun, prisoner No. 18,) at Goolam Alli's, he then heard that Goom Pulwan had been killed, it was then arranged by Alli (prisoner No. 19,) Mousad (prisoner No. 20,) Kollumuddin (prisoner No. 21,) and Bhawuddin (prisoner No. 22,) that as Goom Pulwan had been killed it is necessary to send Fezoo under some pretence to bring ploughing implements from Chur Durbesh and kill him when the case will appear less heinous as the blame will be laid on the other side. Mahomed Hossun (prisoner No. 18,) *admits he was then present.* That Kollumuddin (prisoner No. 21,) called Fezoo and directed him to go to Durbesh for the plough, &c.; that he, Mahomed Hossun (prisoner No. 18,) Alli (prisoner No. 19,) Mousad (prisoner No. 20,) and Kollumuddin (prisoner No. 21,) and Feza Gazee *alias* Fezoo, (witness No. 1,) took Fezoo to the Chur and afterwards returned with him to his own house when they directed Fezoo to go to sleep in Omed Alli's house south of which is his own; that when they took the boy inside, he, (Mahomed Hossun prisoner No 18,) was standing at the door; that Mousad (prisoner No 20,) seized the lad by the throat, Alli (prisoner No 19,) put his hand over his mouth, and Kollumuddin (prisoner No. 21,) laid hold of his thighs, it being moonlight, prisoner saw him expire; that Alli (prisoner No. 19,) twisted the boys arm and Mousad, (prisoner No. 20.) struck him a blow with a heavy stick on the head; that having perpetrated the crime Mousad (prisoner No. 20,) went home and he (Mahomed Hossun prisoner No. 18,) went to Sunna Alli's (prisoner No. 23,) house, Kullumudin (prisoner No. 21,) then told Bhawuddin (prisoner No. 22,) that Fezoo was dead, upon this, Bhawuddin went the next morning with Omed Alli to the darogah to report the murder of Fezoo Chokra *as having occurred* in the affray. That the police having come, he heard the body had been found in Omed Alli's house.

Alli (prisoner No. 19,) confesses in the mofussil and before the joint-magistrate, and those confessions are proved to have been voluntary; that he had heard of the death of Goom Pulwan; that afterwards Mahomed Hossun, (prisoner No. 18,) Mousad (prisoner No. 20,) Kollumuddin (prisoner No 21,) Bhawuddin (prisoner No. 22,) and Sunna Alli (prisoner No. 23,) Fezah Gazee *alias* Fezoo (witness No. 1,) and Fezoo Chokra accompanied him to Chur Durbesh; that before going there, Kullumuddin (prisoner No. 21,) and Bhawuddin (prisoner No. 22,) called him to the house, where he saw the abovementioned

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sitting behind the kutcherry. That Mahomed Hossun (prisoner No. 18,) Mousad (prisoner No. 20,) and Sunna Alli, (prisoner No. 23,) went to the Chur, that he, Kollumuddin (prisoner No. 21,) and Bhawuddin (prisoner No. 22,) followed them; that they all then went to the house of Mahomed Hossun (prisoner No. 18,) the nephew of Bhawuddin (prisoner No. 22); he further states, that Kollumuddin (prisoner No. 21,) Bhawuddin (prisoner No. 22,) and Sunna Alli (prisoner No. 23,) directed the boy Fezoo to fetch some ploughing implements. The boy having entered Mahomed Hossun's house, the others all followed, but he (Alli prisoner No. 19,) remained in the verandah about three or four cubits distant. They, then all laid hold of Fezoo and threw him on the ground, Mahomed Hossun (prisoner No. 18,) caught him by the throat, Mousad (prisoner No. 20,) put his hand over his mouth, and Kollumuddin (prisoner No. 21,) pressed down his thighs, Bhawuddin (prisoner No. 22,) stood on one arm, and Fezah Gazee *alias* Fezoo (witness No. 1,) on the other; he heard the boy's cries; about ten minutes afterwards Fezoo died, it was then determined by Kollumuddin (prisoner No. 21,) Bhawuddin (prisoner No. 22,) and Sunna Alli (prisoner No. 23,) that as Goom Pulwan had been killed and the boy also, the case will not prove so hard against them. So Fezah Gazee *alias* Fezoo (witness No. 1,) and another struck him two blows with a *lattee*. The prisoner declares he had endeavoured to prevent the outrage, but Kollumuddin (prisoner No. 21,) Bhawuddin, (prisoner No 22,) and Sunna Alli (prisoner No. 23,) threatened him. That after some altercation, they placed the corpse in Omed Alli's house.

In the court Mahomed Hossun (prisoner No. 18,) declared he did not confess at the thannah, that he was exposed to the sun for two days, and that his confession before the joint-magistrate was taken in the presence of two peons. On reference to the proceedings, I found this statement to be false, for he was apprehended on the 6th of May, his reply was taken on that day and on the 7th by the magistrate. The prisoner, moreover, has no witnesses to support his assertions and the magistrate's declaration is a sufficient guarantee for the fairness of the proceedings in his court.

Alli (prisoner No 19) denies all knowledge; was at his house; this declaration is unsupported; Mousad (prisoner No. 20,) declares he was at Siddy on the day in question, but, as observed in trial No 1, this evidence fails; Kollumuddin (prisoner No. 21,) denies all knowledge, stating himself to have been wounded in the affray, Assan Bhooyah (witness No. 33) prisoner's father-in law, and Bux Alli (witness No. 37,) his elder brother, bear testimony in his favor, but being materially interested-witnesses are not worthy of credit; Bhawuddin (prisoner No. 22,) states that he was wounded in the affray and therefore it was not possible

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for him to have participated." His statement is supported by relative Meerjaun a prisoner in the Civil jail and Bassir Putwaree (witness No. 40,); Sunna Alli (prisoner No. 23,) plea sickness as his excuse, but in trial No. 1. the civil assista surgeon's evidence is against him.

The law officer is of opinion, from the evidence of Fezah Gazee *alias* Fezoo (No. 1,) from the circumstantial evidence that has been adduced, and from the confessions of Mahomed Hossun (prisoner No. 18,) and Alli (prisoner No. 19,) both at the thannah and foujdarree, that the charge of being *accomplices* in the murder of Fezoo Chokra is proved against Mahomed Hossun (prisoner No 18.) Alli (prisoner No. 19) Mousad (prisoner No. 20,) Kollumuddin, (prisoner No. 21,) that of aiding and abetting against Bhawuddin (prisoner No. 22,) and privity against Sunna Alli (prisoner No. 23.)

Taking therefore into consideration the affray attended with the homicide of Goom Pulwan and the deliberate, atrocious, and cold-blooded murder of their unfortunate victim eight to ten hours subsequent, I would recommend a sentence of capital punishment against Mahomed Hossun (prisoner No. 18,) Mousad, (prisoner No. 20,) and Kollumuddin, (prisoner No. 21); imprisonment for life in transportation against Alli (prisoner No. 19,) and imprisonment with labor in irons in banishment for fourteen years against Bhawuddin, (prisoner No. 22,) and Sunna Alli, (prisoner No. 23.)

With these remarks I beg to leave the case in the Court's hands.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart, and Mr. B. J. Colvin.) All the prisoners in this case, save No. 19, Alli, son of Azim, were committed in the case of affray attended with murder of Goom Pulwan.

No. 18, Mahomed Hossun
19, Alli.
20, Mousad.
21, Kollumuddeen.
22, Bhawuddin.
23. Sunna Alli.

The prisoners in this case are charged with the murder of a lad, Fezoo, who was servant of the prisoner, No. 22.

The circumstances which led to the affray in which Goom Pulwan lost his life having already been stated, it will suffice to point out how this case arose as it is alleged, out of the other.

Goom Pulwan belonged to the party of Mahomed Huneef and others, who were acquitted by the sessions judge, when sent up to the sessions with the prisoners in this case and others, all charged with affray and murder of Goom Pulwan on the 20th Bysack 1262 or 2nd May, 1855.

The lad, Fezoo, it is charged, met with his death at the hands of the prisoners on the night of the day on which the affray took place in order to set up a counter-charge against their

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opponents released in the sessions court. The first proceeding of the joint-magistrate on the record is a roobakaree of that officer dated the 3rd May, in which he states that it has come to his knowledge by report that the adherents of Hossein Suzawul and those of Ramkunahee Bose Surburakur had encountered each other and *two* persons had been killed, and several wounded.

An order was issued to the fouzdaree nazir and the darogah of the suddar station to proceed immediately to the scene of action, Chur Durvesh, and Munnoo and Amjud, who had brought in the corpse of Goom Pulwan, were at once examined in court. They deposed they saw the affray and implicated all the prisoners charged.

On the 2nd May, the darogah of Amayeergaon, within whose jurisdiction the affray took place, commenced his enquiries and on the 3rd he took the deposition of No. 22, who charged his opponents with the murder of his servant, the lad Fezoo. On the 4th the nazir and darogah of Sodaram joined the Amayeergaon darogah and the investigation into the cause of the death of Goom Pulwan and Fezoo was carried on by all three officers conjointly up to the 7th, when the two cases were separated and separate enquiries and reports made by them conjointly regarding each case.

The record shews that the prisoner, No. 18, was taken by a burkundaz, Brijolal Sing, before the three officers on the 6th May and confessed before them, that on the night of the 2nd May, on which date the affray took place, at 10 A. M., Fezoo, the deceased lad, who had returned from Buksh-Alli-Haut in the afternoon, was taken by the prisoner to Chur Durvesh under pretence of bringing some ploughs, that a consultation which he heard took place between the prisoners and they resolved to murder the lad, Fezoo, in order to produce a dead body and to charge their opponents with his murder.

The prisoner, No. 18, in this confession admitted his presence on the spot, when the boy was murdered by them, he being a short distance off at the time, and described the part which each prisoner took in the deed. Information was immediately given at the thannah of Fezoo's death in the affray; the darogah came the next day and the prisoner No. 18 was sent into the magistrate with the corpse of Fezoo.

Upon this confession, Fezoo, a prisoner, (since made an approver,) who was implicated in it, was seized and confessed also on 7th May to having been present when the lad was murdered by the prisoners and gave all the particulars, setting forth the acts of each prisoner who participated in the murder.

Prisoner, No. 18, also included the name of prisoner, No. 19, in his mofussil confession and the two confessed on the 7th May to privity to the deed. Prisoners Nos. 20 and 21, similarly accused were seized and pleaded *not guilty* on the 8th idem.

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Prisoners, Nos. 22 and 23, had already been sent into the station upon the charge of affray.

The three officers sent in their final report on the 13th May. Before the joint-magistrate, prisoners, Nos. 18 and 19, confessed to the extent recorded, and the remaining prisoners Nos. 20, 21, 22 and 23 pleaded not guilty.

In the sessions court all the prisoners denied the charges on which they were severally committed.

The evidence for the prosecution is grounded in the first instance upon the information furnished by the burkundaz, Brij Lall Singh. The nature of this information is disclosed in a petition of the 15th May, which he presented to the officiating joint-magistrate, claiming some reward for his services on this and other occasions. He states that on the 22nd Bysack, corresponding with the 4th May, he seized the prisoner No. 18, in the mofussil and kept him in his own custody securely. On the 23rd Bysack, he spoke to him, and by a stratagem evinced the facts of the murder out of him, told him not to be afraid, upon which prisoner said he knew all about it, as did Fezoo, the approver. He then took prisoner apart and told him to speak the truth, on which he said Nos. 20 and 21 and 19, strangled the lad Fezoo, adding he, No. 18, and Fezoo, the approver, were on the spot. Upon this, the nazir and the two darogahs ordered him, the burkundaz, to bring the prisoner No. 18, to them, when he repeated before them all that he had already communicated to him. The confession of No. 18, was written down and he was sent in to the magistrate under his Brij Lall's charge. Fezoo, the approver, was left with the nazir and the two darogahs.

It will be observed that Brij Lall no where, in this petition, shews under what authority he apprehended the prisoner on the *4th May*, and kept him in his own custody till the 6th idem, when he took him to the three officers of Government, who have given the *6th* as the day of the prisoner's apprehension, omitting all mention of the facts stated by the burkundaz in his petition of the 15th May to the joint-magistrate above referred to, such are the circumstances attendant on the apprehension of prisoner No. 18, in consequence of which the other prisoners were seized.

The evidence of one approver, Fezoo, is the only direct proof, which is brought forward in this case. Such evidence must be taken with the greatest caution, and in a case such as that now before us requires some corroboration to support it. All the corroboration that is to be found is the alleged fact of the boy, Fezoo, being seen in the Bux Alli's Bazar selling pepper in the afternoon and evening of the 2nd May, after the affray, which had occurred in the morning of that day. The presence of the lad in the bazar was no extraordinary occurrence, yet singularly

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enough several witnesses have deposed to the fact most particularly specifying the hours in which they saw him. Why his presence should have attracted peculiar notice on the afternoon of the 2nd May, is not explained. But suppose that fact to have been established, further proof connecting the prisoners with the murder of the lad is absolutely necessary to convict them of the charge. But there is none; the approver's evidence is the sole evidence against the prisoners who have all along pleaded *not guilty*. It will be remembered that so early as the day after the affray, that is on the 3rd May, the magistrate heard of two deaths which had occurred in it. If the lad Fezoo, who is throughout proved to have been on the spot ploughing the lands of prisoner No. 22, which were in dispute, was not one of the two killed, where is the second corpse? who was killed? and why was not even a rumour of the lad having been killed by his own party as described, known to the three officers, who had been carrying on the local investigation? It is true the police reported that the boy's mother stated that her son might have been killed by his own party on the 5th May, but it was not till Brij Lall brought prisoner, No. 18, before them on the 6th May, (the murder having been as alleged committed on the night of the 2nd idem,) that any weight appears to have been attached to her suspicions, or any measure to prosecute enquiry upon *that* point was taken. We therefore not considering that there is any sufficient proof on the record to convict the prisoners Nos. 20, 21, 22 and 23, acquit them and order their immediate release.

As regards the prisoners, who are reported on the trial as confessing prisoners before the three officers in the mofussil and before the joint-magistrate, we observe that the prisoner No. 18, was, as Brij Lall Burkundaz himself admits, seized by him on the 4th May, and kept in close custody till the 6th idem, when he was taken before the three officers. In the sessions court he denied these confessions and pleaded he had been ill-used in the mofussil. He was sent into the magistrate under charge of Brij Lall, the very man who had confined him, and it is impossible to say under what influence or motives he was induced to confess to a crime, the actual commission of which we have the greatest reason to doubt. The sessions judge's argument, that as the prisoner was apprehended on the 6th May, and sent into the magistrate on the 7th, he could not have been ill-treated as he pleads is as above shewn unsound. Disbelieving the truth of the prisoner's confessions, we have no other alternative than to acquit him. The fact of the actual murder being thus so little worthy of credit, we cannot act on the confession of the prisoner No. 19, and are bound to acquit him also.

PRESENT:

H. T. RAIKES, AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND DODEERAM CHUND

versus

NARAIN DOSS (No. 3,) MADHUB PATTER (No. 4,) SEETARAM DOSS (No.5,) DURPOO* GOTAIL (No. 6,) KUROONAKUR GEEREE (No. 7,) NARAIN JANA, (No. 8,) BENE MALEE (No. 9, APPELLANT) KALEECHURN BHOOYA (No. 10,) DABEE DOSS (No. 11,) HARRO SAMUL (No. 15,) AND MUSST. ANUND MOEE (No. 16, APPELLANT.)

Midnapore.

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Case of BENE MALEE and others.

The conviction and sentence of nine years' imprisonment with labor and irons, on prisoner No. 9 was upheld on appeal, on the grounds of his own confessions, and of the restoration by him of the stolen property found in his possession.

Prisoner No. 16, who had pleaded *not guilty*, was acquitted on account of the insufficiency of the hearsay evidence against her.

CRIME CHARGED.—Nos. 3 to 11, 1st count, with dacoity in the houses of the plaintiffs, Dodeeram Chund and Kistonarain Chund, witness No. 1, and having plundered property of the value of Rs. 965-10-6 from the house of the former and Rs. 276-8, from the house of the latter. Nos. 4 to 9, 11, 15 and 16, 2nd count, with having in their possession property obtained in the above dacoity, knowing the same to have been plundered.

CRIME ESTABLISHED.—Nos. 3 to 11, accomplices in the dacoity; Nos. 15 and 16, having in possession plundered property knowing it to have been so acquired.

Committing Officer.—Captain C. H. Keighly, assistant general superintendent and assistant to the dacoity commissioner and joint-magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on 25th September, 1855.

Remarks by the sessions judge.—The prisoners plead *not guilty.* It is in evidence that the house of the prosecutrix was broken into by a gang of dacoits on the night of the 22nd May, and property carried off to the value of Rs. 1,241. It is also in evidence that the darogah (Gujraj Singh, witness No. 4,) of the Nemal thannah incidentally learnt that the aforesaid dacoity had taken place and he was subsequently informed by the witness, No. 84, Narain Doss Behra, that the prisoner, No. 3, Narain Doss, was lying in his house wounded. He immediately arrested the prisoner, upon whose person he found a wound in the stomach, quite recently inflicted apparently with a three or four-pronged spear, the prisoner confessed to having committed the dacoity and denounced the other prisoners, who were then arrested, who also confessed to having been concerned either as principals or accessaries in the robbery and gave up sundry articles of property, which are identified by

* Acquitted by the sessions judge.

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the prosecutor and his brother, witness No. 1. as belonging to them, and as a part of that stolen. The confessions made to the darogah by the prisoners, Nos. 3, 4, 5, 6, 7, 8, 9, 11, and 15, were repeated before the deputy magistrate. The prisoners in this court plead in defence that they were intimidated into making a confession and cite sundry witnesses, who are unable to say any thing in their favor. The evidence against the prisoners, Nos. 3, 4, 5, 6, 7, 8, 9, 10 and 11, of having been accomplices in the robbery of prosecutor's house is, I think, conclusive. Their confessions are probable and consistent throughout and corroborated by the wounds found on the prisoners, Nos. 3 and 10, and by the discovery of the stolen property in possession of the rest and, by the confessions of the prisoners, denouncing each other, further corroborated by the fact of Narain Geeree, the declared leader of the gang, having made a full confession of his being a professional dacoit, and having been convicted and sentenced as such by the Sudder Nizamut Adawlut. The prisoner No. 15, pleads that he was ignorant the property made over to him was stolen, but all the circumstances attending its discovery and the fact of his close connexion with Juggo Sein, who is now in custody on a charge of being concerned in the dacoity, establish the guilt of the prisoner. The prisoner No. 16, pleaded at the thannah that the articles which she produced were pledged to her by the prisoner, Seetaram, No. 5, and that she was not aware they were stolen property. Before the magistrate and this court, she denies it was found in her possession. The fact of her producing it, is clearly proved by the evidence of the witnesses, Nos. 4, 5, and 6, and others, corroborated by the confession of prisoner, No. 5, who according to the evidence is a servant of the said prisoner, Anund Moee. This woman is a widow and a talookdar, acting independently and therefore responsible for her own acts. The scene of this dacoity is in the jurisdiction of thannah Bamoonarah, not less than twenty-four miles from the villages where the prisoners reside in the jurisdiction of Nemal thannah. The plans of the dacoits seem to have been so well arranged as at first to baffle all pursuit and discovery, and had not the wound received by the prisoner, No. 3, Narain Doss, been such as to preclude his moving from his house, it is more than probable that the real perpetrators of the dacoity would never have been traced. The interference of the police in the first instance so far from eliciting any facts, likely to lead to the discovery of the robbers, was pernicious as it not only diverted the channel of enquiry from its proper course but was calculated to throw suspicion on the subsequent proceedings, when a clue to the real perpetrators of the crime had been obtained. The darogah of Bamoonarah, Mirzah Hingun, arrived at the prosecutor's village on 25th May, and on the 26th he arrested two persons on

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suspicion, the prisoners, Nos. 1, and 2. These are said to have made a confession to the darogah, but the story recorded by the latter, they repudiated both before the deputy magistrate and in this court, and as it does not accord in a *single particular* with the results subsequently obtained by the darogah of the Nemal thannah and as one of the prisoners, No. 2, (the other in the mean time having made his escape) was kept in custody by the darogah from 26th to the 31st May upon an unfounded pretext, is clear from the evidence; there are strong grounds for presuming that the darogah (Mirza Hingun,) to save himself the consequences which might attend his failure to gain any traces of the dacoits used improper means to extort a confession from an innocent party. It is further evident that when he proceeded on the 3d June, into the jurisdiction of the Nemal thannah to co-operate with the darogah there, in following up the clue that had been obtained, his proceedings were so framed as to make it appear that the two parties he had in the first instance arrested and illegally detained, were concerned with the Nemal gang. His motive in so doing is palpable and his proceedings demand the serious attention of the magistrate.

Sentence passed by the lower court.—Nos. 3 to 11, to nine years' imprisonment each with labor and irons in banishment, No. 15, to five years' imprisonment with labor in irons and No. 16, to five years' imprisonment with labor suitable to her sex, and all the prisoners to pay a fine under the provisions of Act XVI. of 1850 of Co.'s Rs. 1,353-11-9, jointly and severally.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) Regarding the prisoner No. 9, who has appealed, there are his confessions and the restoration of the stolen property. With his conviction therefore we see no reason to interfere: but regarding the other appealing prisoner No. 16, who pleaded *not guilty* in the foujdaree and at the sessions, but whom the sessions judge has convicted on the evidence of witnesses to the giving up of property, which the prisoner No. 5, states was taken in this dacoity and pledged to her, we find that no such evidence is really produced against her. The witnesses to finding of property say that they only heard the police burkundaz assert that certain property, which he showed them, had been given up by the prisoner Anund Moee, and this property the burkundaz gave to the darogah. The judge was, in our opinion, much in fault to accept such evidence as proof of the crime of which he convicted the prisoner. We direct her immediate release.

PRESENT:

H. T. RAIKES AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT AND SHEOCHURN

versus

ANDOO (No. 5,) GUJRAJ (No. 6,) AND MUNRAJ (No. 7.)

Chota Nagpore.

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Case of ANDOO and others.

Prisoners Nos. (6) and (7) convicted of murder and sentenced capitally; No. (5) convicted of aiding and abetting and sentenced to transportation for life.

The evidence of eye-witnesses, for the prosecution, though varying as to the person who actually inflicted the fatal blow, was evidently trustworthy and sufficient to convict the prisoners of respectively committing and aiding and abetting in a cold-blooded murder.

CRIME CHARGED.—Wilful murder of Fuqeera, brother of the prosecutor, Sheo Churn.

Committing Officer.—Capt. W. H. Oakes, principal assistant commissioner, Lohurdugga division.

Tried before Major J. Hannyngton, deputy commissioner of Chota Nagpore, on the 17th October, 1855

Remarks by the deputy commissioner.—The prosecutor states that one night in Sawon, his brother, Fuqeera, was sleeping on the same bed, their mother, who was sick, being on another with a light in the room, and it being moonlight, when the prisoners Munraj, Gujraj and Andoo, together with Phagooa, in all four persons, came and having withdrawn the screen from the door, Gujraj entered and struck Fuqeera on the face with a sword, prosecutor awoke and attempting to get up was held down by Andoo, Fuqeera began to cry out and got up when Munraj struck him with a piece of split wood. Prosecutor then laying hold of the post, got up and raised an alarm, but no one came. Gujraj said, Kill them, and then, the three, Munraj, Gujraj and Andoo went inside the house, while Phagooa, with a staff in his hands, stood outside, but prosecutor concealed himself, and Andoo having struck Fuqeera a blow on the right side of the head with a piece of split wood, the prisoners made off. Prosecutor went to Raona Khal and Bodh Sen Kumhar, and told them what had occurred, they came and having seen the house, went away. Prosecutor, the next morning gave information to Gunour Singh, the headman of the village, that the prisoners had committed the murder, and the prisoners, Munraj and Andoo, were immediately apprehended, as was also Phagooa (witness No. 8.) There had been an ill-feeling between the prisoner Munraj and the deceased, because the deceased had taken the license of a spirit-shop that had previously been kept by Munraj. Another shop had been set up by Gujraj close by and on the complaint of the deceased to the former Nirgin, the new shop was destroyed. The deceased made strong spirits, and customers from the (prisoners') village came to his shop. This ill-feeling led to the murder, Andoo has friendship with the other prisoners. The piece of split wood, now in court, is of *Kurunj* tree, and belongs to Gujraj; prosecutor has known the

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prisoners for a year. Prosecutor did not see the first blow struck by Gujraj, but immediately after saw an axe in his hands and concluded that he had struck the blow.

The prisoners plead *not guilty*.

No. 1, Musst. Kooloos, the mother of the deceased, states that she saw the prisoner Gujraj strike the deceased on the head with an axe, Munraj also struck him with an axe, and Andoo with a piece of split wood. There was a light burning in the room, and it was moonlight. The prisoners and the deceased had a dispute about the spirit-shop. Andoo had no dispute, but he is a friend of the other prisoners. The murder was committed on the night of Wednesday, the market-day.

No. 2, Gunour Sing, was told by Sew Churn, at the dawn of morning on Friday, that Gujraj, Munraj and Andoo had murdered his brother; witness then went and saw the body of Fuqeera, and had the prisoners, Andoo and Gujraj, and (the witness No. 8,) Phagooa taken up; Gujraj and Munraj had a dispute with the deceased about a distillery.

No. 8, Phagooa, states that on the evening of the market-day, he was at a spirit-shop with Gujraj, Munraj, and Andoo, and that Gujraj said they were about to kill Fuqeera, witness then went homewards, and the prisoner Gujraj with a club, and Munraj, with a sword, went into Fuqeera's shop and there beat him, witness and Andoo stood outside. As the other two were running off, witness asked them why, and they said "Fuqeera is killed outright; don t tell any one." They then went home and so did witness, afterwards an alarm was given, and witness then went and told Gunour Sing (witness No. 2,) what had happened. The murder occurred before midnight, the witness, through fear, did not tell Gunour Sing till the morning, witness was himself charged with this murder.

No. 13, Raona, states that immediately after the murder, Sew Churn called him, saying that a dacoity had occurred, witness went and saw Fuqeera lying dead, but did not learn any particulars of the event.

No. 14, Bodh Sen, states that on Thursday, about midnight, the prosecutor came to his house and told him that Fuqeera had been murdered by Gujraj, Munraj, Andoo and Phagooa; witness went and saw the body of Fuqeera and being greatly alarmed, ran home.

The prisoners offer no defence.

These witnesses,* on behalf of the prisoner Andoo, state that he has been twice imprisoned, and five times apprehended.

No. 10, Boodho, states that Gujraj bears a good character.

†Know nothing of the prisoner Gujraj.

* No. 2, Gunour Sing.
,, 3, Goona.

† No. 18, Khedoo.
,, 19, Ramkissen.

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The jury,* whose names are entered below, find the prisoners guilty as charged.

I am of opinion that the evidence of the brother and mother of the deceased, who were eye-witnesses to the fact, is, when taken with the other circumstances of the case, conclusive against the prisoners, but by whom the wounds were inflicted is not clear, for the two eye witnesses vary on this point, and the record of the inquest shows that only two wounds were given. The murder has no extenuation, and I perceive no safe grounds on which a distinction as to the guilt of the prisoners severally, can be made. The witness, Phagooa, who states that Andoo stood outside, cannot be trusted, for he was apparently himself an accomplice in the crime. I therefore recommend that a sentence of death be passed on all the prisoners.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) As remarked by the deputy commissioner, the evidence of the eye-witnesses varies as to the individual prisoner, who inflicted the mortal blow, but considering the circumstances under which the witnesses saw the assault, namely, that they were suddenly awoke from sleep and in the uncertain light witnessed the murder, it is not surprising that they should vary in their account of the manner in which the wounds were dealt. It, however, tends to strengthen our belief in the general truth of their story and shows that it was not the result of previous consultation. We consider it may be unhesitatingly presumed that the prisoners Gujraj and Munraj were the actual perpetrators of the crime, and that Andoo so far aided and abetted them as to hold down Sew Churn, the prosecutor, and prevent his giving any assistance or alarming the neighbours. There is also the admission of Gujraj and Munraj that enmity existed between them and the deceased about the liquor license, while Andoo states that this was the incentive to the murder, and that he and Phagooa were induced to accompany them and did so merely from the circumstances of their drinking together at Gujraj's shop at the time. The murder was cold-blooded and deliberate and affords no extenuating circumstances. We convict the prisoners Gujraj and Munraj of the crime and sentence them capitally, and the prisoner Andoo of aiding and abetting therein and sentence him to transportation for life.

* Lalla Gujraj Sing Mookhtar, Ukhoury Imrit Lall ditto, Ukhoury Luchmenarain ditto.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

NEEL CHUNG.

Sylhet.

1855.

December 14.

Case of NEEL CHUNG.

Prisoner convicted of perjury and his appeal rejected.

CRIME CHARGED.—Perjury in having, on the 7th May 1855, intentionally and deliberately deposed under a solemn declaration taken instead of an oath before Moulovee Nussurooddeen Hyder, sudder moonsiff of zillah Sylhet, "that I saw Soroop Sing, peyadah, give three annas, as diet-allowance, into the hands of Sheik Loll," and in having, on the 6th August, 1855, again intentionally and deliberately deposed under a solemn declaration taken instead of an oath before Mr. T. P. Larkins, magistrate of Sylhet, "that Soroop Sing peyadah did not give the diet-allowance, three annas, to Loll Mahomed in my presence nor did I see it; and that Loll Mahomed and Sheik Loll is the same person," such statements being contradictory of each other on a point material to the issue of the case.

CRIME ESTABLISHED.—Perjury.

Committing Officer.—Mr. T. P. Larkins, magistrate of Sylhet.

Tried before Mr. F. Skipwith, sessions judge of zillah Sylhet, on the 21st August, 1855.

Remarks by the sessions judge.—The charge entered in the calendar is satisfactorily proved, by the depositions given by the prisoner on the two separate dates and which have been duly sworn to.

Soroop Sing, peyadah, was charged before the moonsiff of Parkool with embezzling the diet-allowance entrusted to him for certain witnesses, of which 3 annas was due to Loll Mahomed.

His defence was that he had paid 3 annas, and the prisoner Neel Chung was cited by the moonsiff to give evidence as to the fact, so that his depositions were given on points material to the case.

Sentence passed by the lower court.—Three years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We see no reason to interfere. The contradictory statements are evident from the record, and the prisoner has advanced nothing in his appeal to shake the conviction against him.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges*.

GOVERNMENT

versus

SHUMRUN TELEE.

Bhaugulpore.

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Case of SHUMRUN TELEE.

Prisoner acquitted, as there was not sufficient proof that he comitted wilful perjury within the meaning of the law.

CRIME CHARGED.—Perjury, in having on the 25th September 1855, deposed, under a solemn declaration taken instead of an oath before the deputy magistrate of Muddehpoorah, that he was entirely ignorant of the subject-matter of Musst. Munga's complaint; that he had no acquaintance or relationship with her or her husband Sheebchurn, and he never saw the village called Kundowlee, where the event is said to have taken place, such deposition being false and having been intentionally and deliberately made on a point material to the issue of a case.

Committing Officer.—Moulvy Zainoddin Hossein, deputy magistrate of Muddehpoorah.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 24th November, 1855.

Remarks by the sessions judge.—It is a case of perjury thus stated in the deputy magistrate's calendar: "A complaint being preferred by Musst. Munga against one Mohadeo Misser, for the murder of her husband, Sheebchurn, by beating, the prisoner was cited as witness on the instance of the prosecutrix and his evidence being taken down on the 25th September, 1855, he denied all knowledge of the matter of complaint, of the parties and even of the village where the event took place; but it having appeared from the record of the case that the prisoner was well acquainted with the circumstances attending the case, he was arraigned on a charge of perjury, to which he pleads *not guilty*, but it being fully proved by the evidence of the witnesses, the local investigation of the darogah and the circumstances of the case, that the prisoner when trading in grain in that vicinity used to frequent mouzah Kundowlee, where he put up with his brother, Lutchmun, who was servant to Byjnoth Das; that in Pous last, when the event took place, he had along with Sheebchurn, deceased, and Mukheem and Pershad witnesses, brought *murwa* from the Nepal territory, and when proceeding to Tajpore Kothia with it, they were taken hold of by Mohadeo Misser and beaten for not paying him *keyalie*, and that he was cousin to Sheebchurn aforesaid and native of the same village with him before the latter removed to Kundowlee, and consequently that his statements made under a solemn declaration were a series of falsehoods, deliberately spoken on points material to the case."

The witnesses, Nos. 1, 2 and 3, prove the deposition, and wit-

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nesses, Nos. 5 and 6, shew that he is brother to Lutchmun Sahoo and used to be with him in mouzah Kundowlee on the occasional visits, but there is no proof adduced as to his acquaintance with the facts of the original case, or as to his acquaintance with Musst. Munga or her deceased husband.

Before the magistrate, he adheres to the statement that he never was in Kundowlee, although encamped in the vicinity and repeats the story before the sessions and pleads ignorance of Lutchmun's residence. The jury find him guilty.

There is no doubt he has sworn to a lie, and comes within the reach of the law, but I do not consider the deputy magistrate has acted judiciously in committing him, he is an ignorant man, can neither read nor write, but is a common travelling merchant. He knows nothing of the case in question (which fell to the ground in appeal) and is not proved to know any thing of the parties, and denied a fact to escape being made a witness in a got-up murder case; considering he committed perjury, I have no option but to pass a sentence of three years' imprisonment with labor, but I think three months' imprisonment, which he will have undergone before the orders of the Court will be received, quite enough punishment and beg to recommend his case to the mercy of the Court.

Remarks by the Nizamut Adawlut—(Present: Messrs. H. T. Raikes and J. H. Patton.) The prisoner was committed for perjury, on the ground that he had made a series of false statements before the deputy magistrate in a case of alleged murder. These falsehoods are stated to be that he was entirely ignorant of the subject-matter of Musst. Munga's complaint; 2ndly, that he had no acquaintance or relationship with Sheebchurn, her husband; 3rdly that he never saw the village Kundowlee where the event is alleged to have taken place. The sessions judge finds no proof of falsehood as to the two first allegations of the charge; but considers the prisoner has sworn to a lie as to his never having seen the village of Kundowlee. On turning to the prisoner's original deposition, we find he states that the village of Kundowlee is five *munzils* from his home; that he has often gone there with grain, and has encamped on the banks of a tank outside, but never stopped inside the village, considering that as the first allegations of the charge are not proved to have been false, it could be of no material consequence to the case referred to in the charge, whether the prisoner ever saw the village of Kundowlee or not; but looking at the evident intent and meaning of the prisoner's statement as to his acquaintance with the village of Kundowlee, we are of opinion that the evidence of the witnesses, who depose to having seen him trading with his brothers *there*, does not convict him of any wilful concealment of the truth as to his knowledge of the place. We therefore acquit the prisoner and direct his release.

PRESENT:

J. H. PATTON, Esq. *Judge.*

GOVERNMENT AND KASHEENATH

versus

MOOCHIRAM GAZEE ALIAS MOOJDEEN AND MOOCHIA (No. 1,) NUSSURUDDI ALIAS NUSSOO KARIGUR (No. 2,) AND KENOO SIRDAR (No. 3)

Jessore.

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The sentence of 7 years' imprisonment on the prisoners was upheld, as the proof was considered sufficient to convict them of the respective charges against them.

CRIME CHARGED.—1st count, Nos. 1, 2, and 3, dacoity in the house of the prosecutor Kasheenath Chowdri and plundering therefrom property to the value of Rs. 29-15 annas; 2d count, Nos. 2 and 3, having in their possession knowingly portions of the property acquired by the above dacoity; 3rd count, No. 2, privity to the above dacoity.

CRIME ESTABLISHED.—No. 1, dacoity, Nos. 2 and 3, knowingly possessing property acquired by dacoity.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried by Mr. O. W. Malet, officiating sessions judge of Jessore, on the 15th September, 1855.

Remarks by the officiating sessions judge.—On the night of the 21st July, 1855, the plaintiff's house was attacked by dacoits, he made as much defence as he could by holding the door against them, and opposing the men armed with a *koontah,* while his wife escaped by the back-door, but having been struck on the head and arm and poked in the stomach, he was obliged to give way and ran to a *betel* garden close by, from which he called for assistance; he recognised several of the dacoits, but, of those present, could only point out Nos. 2 and 3; the neighbours, as usual in these cases, just come in time to be too late, and saw the dacoits going away and the broken boxes &c. in the house.

The day after, the chowkeedar of a neighbouring village saw two strangers walking along, one of them with a bundle, he first stopped one of them and asked him where he came from, he mentioned the name of a village, he then stopped and questioned the other, who gave a different answsr, his suspicions being roused at this, he detained the last man and called out to the by-standers to catch the other, which they did, they looked at the bundle and found it to contain cloths as worn by Hindoos and not by Mussulmans as the men were: putting the men and bundle in charge of the respectable men in the village, the chowkeedar gave intelligence at the thannah, and suggested that it might be the property of a man named Addoo Potdar who had lately been robbed. The thannah mohurrir went out to make the enquiry, he found that the things did not correspond

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with those lost by Addoo Potdar, but on the list being sent to the darogah they were found to do so with the property lost in the present case, and which has been identified before me as being the property of the plaintiff.

No. 1 was apprehended on the confession of No. 2, he himself confessed at the thannah, and also before the magistrate, but no property was found on him; before me he denied and said that he was a dependent of the plaintiff and persuaded by him and the darogah to confess, but allows that except this time when the plaintiff gave him his dinner, that he never ate Hindoo food; his witnesses can say nothing to clear him except No. 39, who confirms the eating, and Nos. 44 and 45 go against him.

No. 2 denies, and says that he was accidentally with No. 3, they went together to collect a debt due to No. 3, when they were attacked by the debtor and his friends, who put the property upon him and then pretended to have seized him; he cannot say why he was taxed with this dacoity and never confessed; his own witnesses all give him a bad character. He was apprehended as above mentioned with the property in his possession and confessed in the mofussil and was undecidedly recognised by the plaintiff as one of the attacking party.

No. 3 denies and tells his part of the same story as No. 2; his witnesses who, with two exceptions, were a very bad looking set, gave him a good character, and one of them No. 31, said that he dined with him on the night in question by invitation, but they say nothing to clear him of the dacoity. The proofs against him are, that he was named by his associates and that he was apprehended with the property in his possession.

The conduct of the police calls for no remark, except that it was owing to the intelligence and good conduct of Sekunder Chowkeedar that the men were caught, and the property recovered. I have ordered him a reward of 20 Rupees and 5 Rs. each to Udoichand Potdar and Mohadeb Potdar who assisted.

I have sentenced the prisoners to seven years each with labor in irons, No. 1, as convicted of dacoity and Nos. 2 and 3, for knowingly possessing property acquired by dacoity.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) The circumstances, detailed in the report of the sessions judge, are completely supported by the evidence adduced on the trial, and the facts connected with the arrest of the prisoners, Nos. 2 and 3, warrant the presumption that they were concerned in the dacoity, while the confessions of the prisoner, No. 1, clearly prove his complicity therein. The property found with the prisoners Nos. 2 and 3, has been identified by the prosecutor, and they disclaim all knowledge as to the party to whom it appertains. I see no reason to interfere with the conviction and sentence.

PRESENT:

A. DICK, ESQ., SIR R. BARLOW, BART. AND B. J. COLVIN, ESQ. *Judges.*

GOVERNMENT

versus

ISHUR GHOSE GWALA ALIAS ISHUR MATCHUA.

Hooghly.

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The prisoner was acquitted on account of the unsatisfactory nature of the testimony of approvers against him. This testimony was not corroborated to a sufficient extent, and the lapse of several years had occurred since the dacoities in which the prisoner was stated to have been implicated.

CRIME CHARGED.—Having belonged to a gang of dacoits and committed the following dacoities, viz., in the house of Tonoo Moyrah at Jushra, thannah Benipore, zillah Hooghly, on the night of the 17th April, 1847. In the house of Katabuddeen Sheikh at Doomordooah, thannah Banipore, zillah Hooghly, on the night of the 4th January, 1849. In the house of Luckheemonee Kaitnee at Bankipore, thannah Banipore, zillah Hooghly, on the night of the 13th October, 1850. In the house of Gopeenath Mookerjee of Moshunda, thannah Santipore, zillah Nuddeah, on the night of the 9th February, 1851; on a boat near Buzramaree *chur*, thannah Banipore, zillah Hooghly, about six or seven years' ago, and on a boat at Gwallaree *chur*, near Pyegachee, thannah Banipore, zillah Hooghly, about six years' ago.

Committing Officer.—Baboo Chunder Sekur Roy, deputy magistrate, under the commissioner for the suppression of dacoity, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 13th July, 1855

Remarks by the additional sessions judge—The prisoner is charged with having belonged to a gang of dacoits and to have committed the six dacoities particularised in the charge.

The evidence against the prisoner consists of the testimony of two approvers, corroborated by facts elicited during the original investigation into the dacoities, of the commission of which the prisoner is now accused.

A verbatim translation herewith follows of the depositions of the approvers.

The evidence of Nemaie Nickaree approver, witness No. 1.

Being interrogated says; I am acquainted with the prisoner. I have committed six dacoities with him, that is to say, a dacoity in the house of Tonoo Moyrah of Jushra; a dacoity in the house of a Mussulman of Doomordooah, a dacoity in the house of a Kaith of Bankipore; a dacoity in the house of a Brahmun of Moshunda; a dacoity in a boat on Buzramaree *chur*, and a dacoity in a boat below Pyegachee on Gopalbaree *chur*.

The particulars of the Jushra dacoity are these. It came off five or seven years ago. The Sirdar was Bhoobun Sirdar, I was

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the spy. I went to Bhoobun the day before the dacoity, and told him about it, and also appointed the west *mat* of Jushra, as the place where the gang was to assemble. I left home at 10 at night on the day of the dacoity, with two or three followers, and proceeded to the place of rendezvouz, where Bhoobun was already present with five or seven followers, some other five or seven persons joined us from different places; when all had arrived, we performed *Kalee poojah;* I had brought some sticks and bamboos and so had Bhoobun. Quitting that place, we went near to the Moyrah's house. The sudder door was closed, one of us fetching a *dhenkee* from an adjoining house, we battered the door with it and forced it open, placing sentries, the main gang went into the premises. I can't recollect who were on *ghattee*, I and several others, having cut through the door of the house, and gaining admittance inside, demolished the boxes and *pettarahs* and plundered their contents. We did not meet with any of the men of the house, but we got hold of the women but they had nothing which we could take, they said they did not possess any money. As we were about to leave, Summoo Khan, the Fareedar, the village chowkeedar and a few of the villagers came to resist us We threatened to do for them and they left us alone; we went off to the *mat* and divided our spoils at the place where we had that night made *Kalee poojah* I got some sort of a silver ornament, and 10 or 12 rupees. I can't say what any of the rest got. I was arrested by the police on suspicion in this case, but I paid the Benipore darogah a bribe and he let me go; no one else was arrested. There were in this dacoity Ishore Ghose, the prisoner, Bhoobun Sirdar, Amud Sirdar, Raie Churn Jooghee, Ishore Bhur, Amud Mussulman, Prilhad Chung, Kaloo Mussulman, Beeroo Boganee, Bunmalee Ghose, Gobind Bhur and myself; I don't recollect the names of any others; we were in all twenty to twenty-five persons, and we got about 250 rupees worth of property.

The Doomordooah dacoity happened about eight years' ago, Madhub Das, and Kallee Chand were the Sirdars, Pyzaree, a relative of mine, was the spy; he informed me of this dacoity ten or twelve days before-hand, when I went to his house, and he said that Kata Kairee had amassed 1,000 rupees from the sale of goats and fowls and that we should get the whole of it if we attacked his house; I agreed to go; coming home I told Madhub Das what I had heard, he said "very well, we will have the dacoity the day after to-morrow, and I will warn the men of it." He went off to do so accordingly; returning he said he had done so, and had told every one to assemble at evening on the long tank near the Doomoodooah road, on the day appointed. I quitted home just as it was getting evening, and arrived at 1½ *purs* at the tank, Madhub was there with about twenty men, I sat there and smoked, and leaving that altogether, we adjourned

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to a mango-grove belonging to my father-in-law, to the north of the house we were to attack. There we prepared our weapons and *mussals*, and after performing *Kalee poojah*, we walked up to the house, placing sentries; and some one undoing the door after scaling the wall, I and others went inside, I can't say who the sentries were, we broke open the door of the house with a *dhenkee* and going inside the house and cutting open the boxes and *pettarahs*, we *looted* their contents, we caught the man of the house whom we found asleep inside, we beat him and demanded his money. He said "I have nothing but what is in that chest." Having finished the plunder, and as we were taking it to the *mat*, the villagers shouted after us, but they did not venture to approach us; having gone some short distance beyond the tank, the search and the division was made in the *mat*, I got a silver *husslee*, 8 or 7 rupees cash, two or three pieces of cloth, and a brass *goorgooree;* we obtained about 2 or 250 rupees worth of property. There were in this dacoity, the prisoner Mudhub Das, Kalachand Sirdar, Pyzuree Nikaree, Prilhad Chung, Nobin Kaura, Nobin Sirdar, Rakhal Nikaree, Kaloo Mussulman and myself, I can't recollect the names of any more, we were in all from twenty to twenty-five in this dacoity.

It was five or six years ago that we committed the dacoity in the house of the Kaith of Bankipore. The Sirdars were Gora Haree and Khatir Khan, the spy was Bhoobun Kaith of Goopteeparah. I, Gora and Khatir had been, three days before the dacoity, drinking together in a grog-shop at Goopteeparah, where we fell in with Bhoobun. He said to us, "Have you a mind to commit a dacoity in my brother-in-law's house, we shall get not less than 1,500 rupees by it." Gora and Khatir then and there appointed a day, and they said to me that they would acquaint the gang of it, and let me know. I came home after I had finished drinking, and at 12 P. M. of the next day, Gora Haree, who was returning from reporting himself at the thannah, informed me that he had acquainted his men of the coming dacoity, and begged that I would tell those who lived about me to go the next day to the grog-shop in Goopteeparah; so having given notice to the members of the gang near my house, we, one at a time, the next evening, left home for the grog-shop; I arrived there at one or two *gurrees* of day remaining after evening had set in, Gora Haree and Khatir Khan, arrived at the same place saying, "Come along let us be off to the *mat*, the others will be there presently;" so we went and sat on the Pyegachee *chur* on the river bank, by one *pur* everybody joined us, we then proceeded to the Gosaie tank to the west of the village of Somrah, those whom I had given notice to had preceded us there, preparing our *mussals* and weapons, and making *Kalee poojah* there, we went up to the house of the Kaith, we cut through the door and went into the premises,

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Khatir and Gora were the sentries, and some others whom I don't recollect, I and the others went up to the houses and cutting through the door and going inside we saw two women there, we caught them and beat them, one of them, who was an old woman threw us a pillow saying "My sons, don't beat me, but take the money you will find in that pillow." We took the pillow and without waiting to plunder the house more thoroughly, we left with the pillow and the few things which the dacoits had been able to lay their hands on. As we were leaving, the village chowkeedar with four or five villagers were about to attack the sentries, and Basee Julla having actually come up to the sentries, Khatir Khan struck him a blow with his *lattee* on the wrist when he ran off, and so did those who came with him. We came out of the village and having got on the *mat*, we cut open the pillow and divided the rupees there were inside it, there was near upon 1,000 rupees in it, and I got forty as my share, there were in this dacoity, the prisoner, Khatir Khan, Gora Haree, Dabee Ghose, Nobin Ghose, Bholla Gwallah, Muddoo Mussulman, Bhoobun Kaith, Golabdee Nikaree, Prilhad Chung, Beeroo Baganee, and I. I don't recollect the names of any others, we were about twenty in all.

The dacoity in the house of the Brahmun in Mashanda, took place five or six years ago, Bustee Haree was the Sirdar, and a Gowallah and a Kaith, whose names I forget, were the spies; I had, at the time, a summons out against me by the dacoity commissioner, and was putting up, the better to evade it, with Bunmalee Ghose of Surjeepoor. I had been there two or three days when the spies told me of this dacoity, and they, in conjunction with Bunmalee and Bhoobun Gowalla settled every thing about the dacoity, and fixed the day for it, the same day I visited my house and leaving it on the day of the day of the dacoity at evening, I proceeded to Goalbaree *chur*, where I arrived at one *pur* of the night, I saw there the rest of the dacoits sitting: going from there, we went to the *ghat* on the *Gunga* and finding a fisherman's boat there, we crossed the river in it and went to the *mat* west of the Brahmun's house; we had brought our *mussals* and weapons, and having made our *poojah*, we went up to the house at about 12 o'clock. The sentries were stationed, and some one scaling the wall, undid the outer door; who were on the *ghatee* I can't say, I and the rest of the dacoits having gone up to the houses, and breaking open the door with a *dhenkee* and getting into the houses, and demolishing the boxes and *pettarahs*, plundered them of their contents, we could not find the man of the house, but we did find four or five of his women, and we took from them the ornaments they had; when we had finished, and were about to leave, the villagers assembled and threatened us, we fired off a gun twice, and they fled, crossing the river and going to the *Gunga chur* we divided our spoils,

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we got in all about 300 rupees worth, I got a gold necklace, a silver bracelet, cash 50 rupees, and an awning cloth, the commissioner has got that to this day. There were in this dacoity the prisoner, Raichurn Jooghee, Bustee Haree, Nyna Moochee, Dabee Ghose, Nobin Ghose, Bhoobun Kaith, Radhanath Ghose, Bunmalee Ghose, Harra Gwallah, Mudna Gwallah, and myself, I can't recollect the names of any others, but we were in all twenty or twenty-five of us.

The Budgramaree river-dacoity happened five or seven years ago, the Sirdars were Ishore Ghose of Shomna and Ishore Bhur. There was no spy, the day of the dacoity Ishore Bhur came to my house and said, "Come with me, there is some business to do on the river." I went with him at once, and at four or six *dunds* at night we reached Budgramaree *chur*, the rest of the dacoits were there, some on the shore, and some on a boat. I and Ishore got on board and loosening the boat and going along the bank, we went up to where there were several *mohajonee* boats, and under the pretence of wanting fire, we were able to ascertain which had the most property on board, when the boats opened with the flood at 12 at night, we followed them, and making fast to the boat on which there were pilgrims, we asked for fire and then going up to the head of the boat, we seized the men at the oars, beat them and wounded them, they quitted the oars and sat down on the edge of the boat, the prisoner going to the stern of the boat beat the *manjee* on the back of his head as he held the helm, the *manjee* shouted out and seized Ishore, but we went to Ishore's rescue and after giving the *manjee* one or two cracks he let go of him, and tumbled into the water, hearing the row, a guard boat sounded the alarm, and was coming up to us, so throwing off the boat we hastened off to our own homes without being able to plunder any thing. There were in this affair, the prisoner, Ishore Bhur, Pertab Bhur, Bassee Julla, Govind Bhur, Brijjo Bhur, and myself, I don't recollect the names of any others; we were in all not more than eleven or twelve.

The Pyegachee Golabarree boat dacoity happened five or six years' ago. The Sirdars were Tonoo Ghose and Tara Alkoshee.

Having said so much, the witness is doubtful if he knows any thing about the Pyegachee dacoity.

The witness is then asked to what dacoity he alluded, when he replied he was present in the Pyegachee dacoity, he says he alluded to the Satgachee river-dacoity.

The first four lines of the witness's confessions, No. 25 page, having been read to the witness, he is asked if it recalls any dacoity to his recollection.

The witness having answered in the affirmative, he is directed to proceed with his deposition.

Four or five years' ago, I committed a dacoity on board a

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Brahmun's boat. At evening on the day of the dacoity, Kumla Chasa, and Rama Chasa came to my house and invited me to accompany them on a river-dacoity, I agreed and started with them. At one or one and a quarter *purs* of night we reached at Golabaree *chur* below Pyegachee factory. Before we had arrived, the men of our gang had, under the pretence of wishing to throw a net there, got along side of the Brahmun's boat. We got on our boat and then pretending to want fire, we jumped on the roof of the Brahmun's boat, going inside the boat, and giving a few blows to the boatmen, the passengers attacked us with *lattees* and swords, Kumla Chasa of our gang was wounded, and we got disheartened, so giving up the affair, we hastened on to our own boat, on which I, and five or six others got on shore and made off home. The rest went off in the boat. There were in this dacoity the prisoner, Kumla Chasa, Rama Chasa, Bassee Julla, Pirtab Bhur, Dookrea Moochee and myself, I forget the names of the others, but we were not more than ten of us.

The evidence of Raiechurn Joogee approver, witness No. 2.

Being interrogated says, I am acquainted with the prisoner, I committed two dacoities with him, i. e. the dacoity in the house of a Moyrah in Jushra, and a dacoity in the house of a Brahmun of Moshunda.

The Jushra dacoity happened five or six years' ago. Bhoobun and Anund were the Sirdars, Nemaie was the spy, the latter came to my house, four or five days before the dacoity, and informed me of it. At evening of the day of the dacoity, I started by myself, and proceeded to Huldeedunga on the Jushra west *mat*, where I arrived at about one *pur* of night. No one had arrived then, they arrived afterwards by degrees and by one and a half *purs* the whole gang were assembled. Nemaie and Ishur Bhur brought us *chhurs*, *lattees*, &c. and at two or two and a half *purs*, after performing *Kalee poojah*, we went up to the Moyrah's house. We cut the door down with a *koolharee*. Bhoobun and Anund were the sentries, I and the rest went to plunder the houses. Having cut through the door, we got into the house, we seized the four or five women who were inside and took their jewels, cutting open the boxes, we took their contents too, the women having set up a shout, the Fareedar in Bankipore *hat* became aware of the dacoity and came up with the chowkeedars and villagers and began to shout. We were unable to remain and left. The Fareedar and his party followed us some distance, when we got to the west *mat*, we sat down and divided our spoils, after which each went home. I got 20 or 24 Rupees as my share, I can't recollect what ornaments I obtained. About 250 Rupees was the amount of plunder. There were in this dacoity, the prisoner, Ishur Bhur, Govind Banea, Nemaie Nikaree, Bhoobun Sirdar, Anund, Kala Charal, Shama Baietee, Soonder Charal, and myself. There were from twenty to twenty-five men present.

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The Moshunda dacoity in the house of the Brahmun occurred four or five years' ago. The Sirdars were Hurchunder Ghose, Tara Alkoosee and Tonoo Khandar, Hurchunder and Bhoobun were the spies, Nemaie Nikaree told me of it, a day or two before the dacoity, I started alone from my house at four or six *dunds* of the night of the dacoity, and at about one *pur* I arrived at Goalbaree *chur* below Soorjeepoor. Several men were sitting there then, and some arrived after, Bhoobun and Bunmalee Ghose brought us *chhurs, lattees* and *mussals*; crossing the river in a fisherman's boat we found at the *ghat*, we left it, and went along the *chur* to a fallow bit of land ten or twelve *beegahs* off the Brahmun's house, and west of it. There we performed *Kalee poojah* and at twelve at night we went up to the house, placing *ghattees* in all directions, and one of our gang scaling the wall and letting us in, we went up to the houses. We broke open the door, and smashing the boxes, we plundered their contents. The man of the house was not there, but his women were; seizing them, we took their ornaments. The villagers collected and made a row. We decamped with what we were able to find. The villagers exchanged blows with us, but we fired off a gun, and that frightened them away. Crossing the river we divided the plunder, I got 10 Rupees, I forget what jewels I got. The value of the plunder was 4 or 500 Rupees. There were in this dacoity, Ishur Matchua, the prisoner, Bhugoban Doolay who is also called Sirdar Hurree Gwallah, Tunoo Khanda, Tara Alkoosee, Bhoobun Kaith, Bustee Haree, Bunmalee Ghose, Radhanath Ghose, Boolchand Ghose, Muddun Ghose, Gora Haree, Muddoo Mussulman, Kotubdee Mussulman and myself, Nemaie Nikaree also went. I don't recollect the names of any others, we were in all twenty or thirty of us.

Nemaie re-called and examined.

Q. How long have you known the prisoner?

A. I have known him from his youth. His house is at Bankipore, mine is at Shomrah, which is adjacent to the former, Raie Churn's house too is at Shomrah.

Being interrogated says: The prisoner did not go in my company when I proceeded to the Jushra dacoity at 10 P. M. with two or three men. He was informed of it by Bhoobun Sirdar, about four men from the village of Bankipore and Shomrah joined in the Jushra dacoity. I cannot recollect whether or not the prisoner went with me on this dacoity, I saw him with Bhoobun Sirdar on the Jushra *mat*. Whether the prisoner was at the *ghattee* or went inside to plunder, I cannot say. I had no interview with Bhoobun Sirdar during the day of the dacoity. I met him at night; one day previous to the dacoity Bhoobun informed the prisoner of it. I cannot say how many rupees the prisoner obtained in this affair. Shomrah is half a *coss* distant from Soorjeepore.

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Being interrogated says, about four or five men of the villages of Somrah and Bankipore went on the Moshunda dacoity, and they were informed of it by me. I also told the prisoner of it one day before the dacoity.

Q. Name again the persons who went from Shomrah and Bankipore on the Moshunda dacoity?

A. The prisoner Ishore Ghose of Bankipore, and Raie Churn Joogee and myself of Shomrah, who else I can't recollect.

Being interrogated says: Raie Churn and the prisoner at the bar did not go with me to the place of rendezvouz, I met them on the Goalbaree *chur*. All the men crossed in the same boat at one time.

Q. Where did you get the *dhenkee* with which you said you broke open the door?

A. It was brought from a house near that of the Brahmun's.

Being interrogated says, that the prisoner went to plunder. I fired a gun, we took one gun and one pistol, the latter was discharged while we were within the premises, and the former when we came out, I can't say who had the pistol.

Q. How far is your house from the *chur* where the search took place?

A. An arrow-flight distant, after search every one went off where he liked. I returned home alone.

Raie Churn Joogee re-called and examined.

I have known the prisoner at the bar for the last ten or eleven years, I did not see the prisoner during the day of the Jushra dacoity. I had heard from Nemaie, two or three days before the dacoity, that the prisoner would join in the affair, the latter did not go with me, I went alone, I met the prisoner first at the place of rendezvouz He was at the *ghattee* I suppose.

Q. Why did not you say so before?

A. I forgot it, as the affair happened a long time ago. The distance between my house and Jushra is about half a *coss*. Five or six persons from Shomrah and Bankipore went on this dacoity.

Q How did you obtain an entrance into the premises in the Moshunda affair?

A. We had two *koolharees* with us and there was a *dhenkee* in the house which Nemaie took up, and with these the doors were broken.

The prisoner was engaged in plundering. After search and division we returned home one by one. We did not take the gun to the house we robbed it was left in the boat through inadvertence We took the pistol which we fired when we left the premises.

Being interrogated says, I have resided at Shomrah twelve or thirteen years, during which period I committed many dacoities.

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Q. Your house is at Shomrah and that of the prisoner at Bankipore which is close by and you knew the prisoner, then how is it that you committed only two dacoities with him?

A. The prisoner had not joined our gang when the others were committed. Being interrogated says, we sometimes invited the prisoner to join, but he would not do so.

The usual comparative statement will show in what cases the approvers are agreed as to the prisoner's presence at the several dacoities deposed to by them.

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Number and name of prisoner.	No. 1. Jushra dacoity.	No. 2. Doomordooah dacoity	No. 3. Bank pore dacoity.	No. 4. Moshunda dacoity.	No. 5. Budgramaree dacoity	No. 6 Pyegachee dacoity.	Remarks.
Ishur Ghose Gwala *alias* Ishur Matchua	Approvers Nos. 1 & 2 ,, 1* & 2.*	Approver No 1. ,, 1.*	Approver No. 1. ,, 1*	Approvers Nos. 1 & 2. ,, 1* & 2*	Approver No 1. ,, 1.*	Approver No 1. ,, 1*	The figures marked refer to the evidence before the dacoity commissioner.

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The case which affords the best, and to my mind, the most complete corroboration of the truth of the approvers' testimony to the prisoner being a dacoit, is the Bankipore affair in the house of Lukheemonee Kaitnee. Ramdyal Singh, a Faree jamadar, heard the uproar while the dacoity was going on. He hastened to render assistance, and on his way found Gungaram Chowkeedar lying on the ground close to Lukheemonee's house badly wounded by the dacoits. He immediately informed the jamadar that he recognized the prisoner and others among the gang of dacoits. When the jemadar got to the house, he was told by Monmoheenee, who was inside the house during the dacoity, that she too recognized the prisoner, and he was also recognised by Madhub Chowkeedar. The evidence was however not deemed conclusive and the prisoner was released by the magistrate.

The approver Nemaie Nikaree is the only witness against the prisoner in the above Bankipore dacoity. His name did not transpire during the first investigation, but his account of the dacoity is so circumstantial, and so conformable to the account given of it by the eye-witnesses, that there be no reason to doubt that he was really concerned in it. The evidence originally existing against the prisoner hardly wanted, as far as I can judge, any further support, but the testimony of the approver amply compensates for any original deficiency of evidence. The failure of the prisoner to account for himself, when he was first arrested for this dacoity, affords a presumption against him. His defence was that he was at a *jattra* held in his master's house, but this was disproved by his own witnesses.

It will be seen also from the abstract of the grounds of commitment that the prisoner was frequently arrested, and that his character was notoriously bad during the period in which the dacoities happened.

His defence at the sessions is that he, being the Mundul of his village, had to hand over the approver Raiechurn for bringing all manner of bad characters into the village and that has made Raiechurn his enemy; he states that in a dacoity in the house of one Bhyrob Chatterjeah he was with a Fareedar when Nemai knocked him on the head, and that he gave evidence in that case against Nemai, who, on that account, has now accused him, he named witnesses to character.

The fact last stated by the prisoner is correct, but Nemai certainly took no part in getting the prisoner named in the dacoity in the house of Lukheemonee and the history of many a case has shown that the most thorough dacoits have, now and then, aided the police in getting proof against some of the insignificant members of the gang, as well to gain favor, as to disarm suspicion as to the real nature of their own characters.

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I place no reliance on the witnesses for the defence, falsified as their testimony to good character is, by the records of cases, in which the prisoner's character appears in the worst light. I would convict him of having belonged to a gang of dacoits and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Mr. A. Dick, Sir R. Barlow, Bart., and Mr. B. J. Colvin.)

Mr. A. Dick.—The pleader for the prisoner, Sreenath Sein, was not in attendance, though due intimation was given him, that the case would be heard.

The evidence of the guilt of the prisoner consists of the testimony of two approvers. Nemaie, No. 1, accuses him of having been at six dacoities; and Raie Churn Joghee of having been at two. There is no corroborating circumstance regarding the two dacoities, in which both approvers concur. His having been therefore in those two dacoities, rests solely on the testimony of those two approvers. The prisoner in his defence, accuses them of malice; and states the causes of their malice, respectively. As Mundul of his village, he had to hand over Raie Churn, No. 2, to the police for bringing bad characters into the village, and thus made him his enemy. The sessions judge does not state that this was disproved, yet it was most easy of disproof, therefore the prisoner is entitled to have it considered true; with regard to Nemaie, No. 1, prisoner declares, that during a dacoity he was with a police officer, when Nemaie knocked him down and he gave evidence against Nemaie; this fact, the sessions judge states to be correct.

The testimony therefore of the approvers is open to strong suspicion of malice; which, coupled with the notoriously guilty characters of the approvers, renders it utterly unworthy of credit. With respect to the case, the Bankipore dacoity in 1850, on which the sessions judge lays so much stress, as corroborative proof of the prisoner's guilt, I observe, that though three eye-witnesses swore to recognition of the prisoner among the dacoits the magistrate at once released the prisoner, disbelieving the prosecutor's witnesses, on whose testimony alone the prisoner was apprehended. I further observe, that the prisoner was only once before apprehended; and then in the river-dacoity case of Mary Beebee in 1836. Then too the only evidence against him was the alleged recognition of two witnesses. The prisoner was acquitted, and an inquiry into his character ordered. The result of which was, that he was proved to be a man of honest livelihood, and earned his bread by his calling. It is true, that the magistrate required security from him for good behaviour, and directed the police to strictly watch him, because he had been apprehended in the above river-dacoity case, though acquitted and released. This is all that I can find against the

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prisoner of having belonged to a gang of dacoits. The prisoner's witnesses at the trial have again spoken favorably of his character, as recorded by the additional sessions judge.

The testimony of the approvers has been shewn to be not impartial; nay, liable to strong suspicion of malice. Their characters are notoriously bad. There is really no corroborative evidence, and the prisoner's character has twice, at a long interval of nineteen years, been testified to as good and honest.

I would reject the testimony of the approvers, fully acquit the prisoner, and direct his immediate release.

Mr. B. J. Colvin.—I concur with the additional sessions judge in convicting the prisoner and in the sentence proposed to be passed upon him.

Both approvers have testified against him in two cases, while No. 1, has deposed to his presence in all six cases. The evidence of the approver, No. 1, as regards the Bankipore dacoity has been corroborated by the investigation made at the time, when the prisoner was named by three people as having been recognised by them and although the prisoner charges the witness with enmity, the evidence of these people is free from that suspicion and was given irrespective of, and before, the evidence of the approver, whose evidence I therefore think credible, and there is nothing to throw doubt upon that of the other approver. It appears, moreover, that the prisoner was once before apprehended on a charge of dacoity and said to have been recognised at the time. I am therefore of opinion that the evidence that he belongs to a gang of dacoits is trustworthy. The committing officer has recorded that, in the latter case, he was acquitted at the sessions, which is incorrect. It was Ishore Ghose, son of Kalachand, who was committed and acquitted. The prisoner, who is son of Mohun, was discharged by the magistrate on requisition of security.

Sir R. Barlow, Bart.—The prisoner, Ishore Ghose, is after the lapse of six or seven years accused of two dacoities, one at Jushra and another at Moshunda by two approvers, Nemaie Nikaree and Raye Churn Joghee.

At the date of the occurrence of these two dacoities, no one was named or apprehended, it was only when the approvers were recently apprehended that they admitted their participation in the *ikrars*, which they made before the dacoity commissioner.

Two dacoities are reported to have taken place in the villages specified; thus far the confessions of the approvers are supported, but nothing has been brought forward in support or confirmation of their evidence that the prisoner was concerned in those offences; nothing, that is, which connects the prisoner with the dacoities, save the bare accusation of the approvers. The prosecution under these circumstances has failed to establish

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either directly or by violent legal presumption the charges upon which the prisoner is arraigned in the cases above adverted to.

The sessions judge lays greater stress however upon proof of the prisoner's guilt in the case of dacoity which occurred at Bankipore.

The prisoner was at the time of the dacoity named as one of the party on that occasion. He was apprehended but released by the magistrate on the charge and, as it is said, was called upon for security.

I find, upon reference to the return to that order, that the demand of security was not enforced and the papers were filed in the record-office.

Upon the prisoner's release in the Bankipore case by the magistrate, it was provided that proper orders should issue in the event of proof being adduced against him at any future period.

The implication of the prisoner by the approver Neemaie, after the lapse of a period of five years, without any confirmation or support from other sources, is not, under the circumstances of the prisoner's denial of the charges brought against him, sufficient, in my judgment, for conviction. I concur in his acquittal.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

BHOGOBAN DOOLEY (No. 24,) MODUN GHOSE GWALA (No. 26.)

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The prisoners convicted of having belonged to a gang of dacoits, were transported for life.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Seker Roy, deputy magistrate, under the dacoity commissioner, Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 9th July, 1855.

Remarks by the additional sessions judge.—Five prisoners were committed in the same calendar with the prisoners, charged with the commission, among them, of nineteen dacoities. One of the five prisoners, Issur Ghose No. 25, died before the trial commenced, and as three of the nineteen dacoities were charged against him only, the number which the remaining prisoners have to answer for, is sixteen.

These are the Zerat dacoity, the Chackloe dacoity, the Kolora dacoity, the Doya dacoity, the Goarah dacoity, the Bankipoor dacoity, in the house of Bhyrub Chatterjea, the Moshunda dacoity, the Satbangal dacoity, the Bankipoor dacoity, in the house of Mohesh Paul, the Baleeghurree dacoity, the Doomoordoh dacoity, the Bankipoor dacoity, in the house of Lukhee Monee, the Hamjanpoor dacoity and the Satgacha dacoity.

Of these again, the last of the Bankipoor dacoity and the Satgacha dacoity are charged against Tarachand alone, whom, as well as another, I have acquitted, so that the proper number of dacoities to which the two prisoners under reference have to plead, is fourteen.

Of these fourteen again, though the prisoners were put on their defence on the whole of them, I did not deem it necessary to examine the approvers in regard to three, these are the Baleeghurree dacoity, the Doomoordoh dacoity and the Hamjanpoor dacoity. My reason for not taking the evidence of the approvers in these three cases was, that I had already taken their depositions in eleven other cases, in some of which there was proof of guilt, against the prisoners, sufficient for their conviction upon the charge of having belonged to a gang of dacoits, and the remaining cases, whether proved or not, would not affect the sentence to which they have already rendered themselves liable.

The prisoners plead *not guilty.*

The evidence against them consists of the depositions of three

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approvers corroborated by the record of investigation made at the time, or since, into the dacoities specified in the charge.

According to my custom in similar cases, I give a verbatim translation of the evidence of the three approvers.

The evidence of Madhub Dass Kyburrut, approver witness, No. 1.

Being interrogated says, I know all the prisoners. I was present in the dacoity in the house of Muddun Mookerjea of Jerat. It took place nine years ago. Soonder Sirdar, Dookea Dooley, and Bhogoban Dooley, prisoner No. 24, were the *sirdars*. The latter was also the spy. Soonder informed me of it at my own house, when I was living at Belgacha. Soonder resided there also, at one *pur* of day remaining of the day of dacoity, I and Soonder started together and at 8 o'clock at night, we arrived below a tamarind tree on Kolepokorea tank on the Jerat west *mat*, Bhogoban, prisoner No. 24, was sitting there with five or six men. By degrees all the rest of the gang arrived there. Bhogoban and his brother, Dookea, brought weapons from their house. Performing *Kalee poojah* there, we started and at twelve at night, we arrived at the Mookerjea's house. One of us scaling the wall, undid the door and let the gang in, Ruttun Sirdar, Dookea Dooley, Tara Alkooshee and others, whom I don't now remember, were placed as sentries, I and the rest of the dacoits going into the interior of the premises and taking a *dhenkee* we found there, we battered the door down, and entering the house, we plundered it. There were several women inside, we took their jewels off them. and we found in another room of the same house the owner of the house. he rushed out of his house and seized Soonder, who was on his *ghuttee*, in his arms and began to wrestle with him. Soonder struck him two or three times with a *katarce* he had in his hand, when he let go Soonder, and ran off. After we had completely plundered the house, we came outside. The villagers were shouting. We made for the Kolepokorea tank, where we all assembled. The search began, but a squabble among the dacoits put an end to it and it was not completed. Every one carried away what he got, I got a pair of *bowtees* and a pair of *taveez*. There were in this dacoity, Bhogoban Dooley, prisoner No. 24, Nobin Ghose Gowallah, prisoner No. 27, Tara Alkoosee, prisoner No. 28, Dookea Dooley, Gora Dooley, Hulla Teor, Juttun Haree, Annund Gowallah, Manick Ghose, Ishur Ghose, Nemaie Nikaree, Dado Ishur, Gunga Bagdee, Gungaram Sirdar Charal, Nobin Chung Sirdar, Kashinath Chung, Nursing Chung, Rutten Sirdar. I don't recollect any more, but Shohoyram Ghose.

Q.—Were you present in the Chackloe dacoity in the house of Gobind Chunder Mitter?

A. Yes.

Q.—State the particulars of that dacoity?

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A.—It happened eight or nine years ago, Soonder Sirdar, Nobin Ghose and Gungaram Sirdar and some others whom I don't recollect, were the *sirdars*. The spy was Cheenoo Chung of Chackloe. The dacoity took place in Goepara which adjoins Chackloe, a tank separates them, Soonder Sirdar gave me information. At two *ghurrees* remaining of the day of the dacoity, I left home, and reaching Jushura *shurraie*, I met Soonder Sirdar, Gungaram Sirdar, and 2nd Gungaram Sirdar; they too were on their way, for this dacoity. We proceeded together and arrived at two *ghurrees* of night on the bank of a *nuddee*, north of Chackloe There were at that place Cheeroo Chung of Chackloe and others, by degrees the whole gang arrived there. Cheeroo brought us the weapons from his house. Having performed *Kalee poojah* there at twelve at night, we proceeded to the Mitter's house. The door was unfastened by some one scaling the wall, when the gang went inside the premises, Soondee Sirdar, Panchcowree Das, Gopal Boona and others, whom I don't remember, were placed as sentries. The rest and I among them went inside, I had a *koolharee*, with which I cut through the house-door and getting inside, we plundered it of cash, jewels and several bundles of thread; we then left: after we reached the *mát* the villagers began shouting. The dacoits all denied that they had any property, so there was no search, every one ran off in his own house. I did the same, I got four bundles of thread and a *laip*, what other things I got, I cannot recollect. Every body saw I had them, but nobody wanted any part of them. Every one was allowed to take away the thread he procured, there was a great quantity of thread plundered. The cash and the jewels were concealed by those who found them. There were in this dacoity, Soonder Sirdar, Gunga Bagdee, Gungaram Sirdar, Nobin Ghose, Gopal Boona, Pagla Boona, Panchcowree Das, Cheeroo Chung of Chackloe, Dado Ishur, Nemaie Nikaree and Bhogoban Dooley, prisoner No. 24, and Tara Alkooshee, prisoner No. 18.

Q.—Were you in the dacoity in the house of Protab Chunder Mookerjea of Kolora?

A.—Yes.

Q.—State the particulars?

A.—It took place eight or nine years ago. Gopaul Boona, Anund Ghose and Manick Ghose, were the Sirdars. The spy was Teencowree Charal. I was informed of it by Bhogoban Dooley, prisoner No. 24. At evening of the day of the dacoity Gopaul Boona and four or five others came to my house from Umbica. I started with them and proceeded to a bridge on the north *mat* of Moondoo Khola. It was then two *dunds* of night or so, I and my companions arrived there first, and then the rest came. It was intended that we should commit a dacoity that night in Panchoo jemadar's house at Moondoo Kholah. Bhogo-

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ban Dooley of Moondoo Kholah was to have brought us weapons from his house, so it had been arranged, but there was an uproar in the village and he could not come out and join us. We heard the row in the village, so giving up the dacoity we purposed to commit in the jamadar's house, we settled to go and attack Protabchunder Mookerjea's house of Kolora. Teencowree Sirdar brought us weapons from his house, and we also prepared some on the *mát*, having cut bamboos out of a clump. Having made *Kalee poojah*, we started for the Mookerjea's house, which we reached at 12 o'clock. The wall was scaled and the door unfastened, we all entered the premises. There were no sentries, every one of us went inside, and cutting through the door of the lower-room and entering the house, we ascended upstairs, where we broke open every box we found, and plundered their contents. We also took the jewels we found on the women. When all this was over, we came out. The owner was not in the house. None of the villagers came near us, they shouted after we left. There was no search, Nemaie Nikaree and those with him ran off with what they had procured, and those who were with me having put together the property we had each secured, it was taken early in the morning to Golab Roy's house that he might dispose of it; after this, I came home. Some days after this, Golab Roy gave me as my share fifteen or sixteen rupees; out of the property Nemaie Nikarae and others carried off, there were a pair of shawls and a silver *lota*, which he sold to Sumbhoo Bhadooree and he sold also some more things to other persons. There were in this dacoity Nobin Ghose, prisoner No. 27, Anund Ghose, Manick Ghose, Ishur Ghose, Nemaie Nikaree, Dado Ishur, Panchcowree Dass, Prema Kyburt, Chundee Bagdee, Gopaul Boona, Satcowree, Prema Bagdee, Radhoo Teor and Bhoobun Sirdar.

Q.—Were you present in the dacoity in the house of Nemaie Sirdar of Dohia?

A.—Yes.

Q.—State the particulars?

A.—It took place eight or nine years ago, Panchcowree Dass and Shabuk Chung were the Sirdars, the latter was the spy. Prema Kyburt came to me at my house in Belgacha and informed me of it. Early on the day of the dacoity I started for Panchcowree's house, I ate dinner there that day, at evening several persons arrived there. They, Panchcowree Dass and I left together and proceeded to a spot called Solobeegha on Koegurea east *mát*, by degrees all the rest arrived there. We had arranged to go and commit a dacoity in Pandua, but Shabuck Chung said it could not take place, Nemaie will inform the nazir and get us apprehended, we must go and murder him at once. Cheeroo Chung of Koegurea having brought us weapons from his house, we started at seven or eight at night,

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and proceeding to a place where there were several *babul* trees north of Nemaie's house. We performed *Kalee poojah*, and at 12 o'clock, we went up to Nemaie's house. It was an unenclosed house, every one staid outside, but Panchcowree Dass and Paglah Boona, who being attired as burkundazes, called out to Nemaie, by name, saying here is the Hooghly Nazir come to see you. Nemaie's son said, Nemaie is ill, on this some one lit a *mussal* and by the light of it, Panchcowree and Paglah Boona cut through the door of the east house and going inside seized Nemaie and brought him out below the *verandah*, Panchcowree Dass began to *hack* him with his *koolharee*, Paglah Boona struck him with his *lattee*, the rest of us were looking on at a little distance off, Nemaie died on the spot. Leaving him there we returned without taking away any thing. Nemaie was cut into pieces. His son said he was asleep in the east house. Nemaie had turned an informer and got some persons apprehended. This was the reason he was murdered. The case was investigated, but we were none of us apprehended. There were present in this affair Bhogoban Dooley, prisoner No. 24, Nobin Ghose, prisoner No. 27, Shabuck Chung, Panchcowree Dass, Bhoobun Sirdar, Hurree Harree, Chundee Bagdee, Kishtochunder Sirdar, Seeroo Chung, Buddun Mussulmah, Nemaie Nikaree, Dado Ishur, Paglah Boona.

Q.—Were you in the dacoity in the house of Satcowree Jolah of Jolahparah?

A.—Yes.

Q.—State the particulars?

A.—It happened eight or nine years ago. Soonder, Chundee and Bhoobun Sirdar, were the Sirdars. Chundee was the spy. Soonder Sirdar informed me of it, and that the gang would assemble after evening at Nakoo *mat*, I started the day of the dacoity at two or four *gurrees* of day remaining from my house and at evening arrived at the appointed place, none of the dacoits had arrived there, they did so afterwards by degrees. Chundee Sirdar and Bhoobun Sirdar brought us weapons from their house. Leaving the place above said, we proceeded to a tank called Mujlish shahib south of Joolapara and sat down below the east bank. Having performed *Kalee poojah* there, at two *purs*, we went up to the Jolah's house. The wall was scaled and the door undone. The dacoits entered the premises; Cheeroo, Bhoobun and Soonder Sirdar were the sentries, I and rest went inside, cut the doors and entered the interior of the houses. Breaking open the boxes, we found a bit of hollow bamboo, in which there was money. We took it out, and there was a box on a *machan*, from which we obtained some jewels. Having seized Satcowree Jolah we demanded from him what other property he had, and our gang plucked out his beard. I can't say who did this, nor can I recollect if I did it. After this we left, the villagers did shout,

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but did not come near us. Having got to the Nakoo *mat*, we were about to be searched, when Nemaie Nikaree ran off with the jewels. Every one then ran off with what he had. There was no search. The money we got out of the hollow bamboo was in my possession. I got the whole of it, it was about eighty rupees, I also got two silver *haslees* and I also got some pieces of cloth. There were in this dacoity Bhogoban Dooley, prisoner No. 24, Nemaie Nikaree, Dado Ishur, Cheeroo Sirdar, Muddun Mussulman, Chundee Bagdee, Prema Kyburt, Bhoobun Sirdar and Hurree Harree.

Q.—Were you in the dacoity in the house of Bykunt Mookerjee of Baleegurrea?

A.—No.

Q.—Were you in the dacoity in the house of Pramechand Koloo of Goara?

A.—Yes.

Q.—State the particulars?

A.—It took place seven or eight years ago; Dado Issore was the Sirdar, Nemaie was the spy, —no, not Nemaie, but a Gowallah of Goara, —Nemaie Nikaree came at 3 or 4 o'clock of the day of the dacoity and informed me of it. He took me away with him; I was not informed of this dacoity before then; after we had reached a *peepul* tree on the Dhawaparah south *mát*, and sat down there, all the rest of the dacoits of the other gangs joined us there, adjourning from there to a tank in Gobra *hat* on which are some palm trees, we sat down there. The Gowallah spy brought us weapons from his house in Goara, so performing *Kalee poojah* there, we went after 12 o'clock to the *Koloo's* house, the door having been unfastened by one of the dacoits, who scaled the wall, we all entered the premises, but Dado Ishur, Muddun Ghose and Muddun Mussulman, who were left on sentry, I and the rest went inside. There was a light in the house in which was the mill which was then at work, there was no door to the house, we caught the *Koloo* inside. He said, Take all I have. In a heap of mustard seed, we found 25 rupees, and some pice in a bag, we also found some jewelry and pots and pans, with these we made off. There was a search on Hatgacha *mat*, we obtained altogether about 100 rupees worth of property. There was a division, I can't recollect what I got. There were in this dacoity, Mudden Ghose, No. 26, Nemaie Nikaree, Dado Ishur, Ishur Kurmee, Muddun Mussulman, Neeloo Chowkeedar, Surroop Chowkeedar and two men of Goaree, whose names I do not know.

The evidence of Nemaie Nikaree, approver, witness No. 2.

Being interrogated says, I know the prisoners, I have committed dacoities with them.

Q.—Did you commit the dacoity in Jerat in the house of Mudden Mookerjee?

A.—Yes.

Q.—State the particulars of that dacoity?

A.—It happened about nine years ago, Soonder Sirdar and Nobin Sirdar were the Sirdars, Gora Dooley and Hulla Teore were the spies; two days before the dacoity, Soonder Sirdar came to my house and informed me of it, at evening of the day of the dacoity, I and Dado Ishur Ghose, who both lived in the same village, started together for Soonder Sirdar's house in Baleegachee, gradually all the dacoits arrived there, we left that together at 10 o'clock at night for a tamarind tree on the bank of a tank on Jerat west *mat*, Bogoban Dooley, prisoner No. 24, was there before us with a party of men, and had weapons present with him for the occasion, when we were all collected, we made *poojah*, and at 12 o'clock, we started for the Mookerjee's house, Madhub Doss scaled the wall and unfastened the door. We entered, four or five persons were placed upon *ghattee*, but I don't recollect who they were. I went inside with the rest, finding a *dhenkee* in the premises, we took it up and with it we broke the door of the house, and going inside did the same with the boxes and plundered their contents, we found the owner of the house in one of the rooms, he ran out, seized Soonder Sirdar in his arms, and began to wrestle with him, Soonder and others laid their clubs upon him. After we plundered the house and had got upon the *mat*, there was a quarrel between us, there was no division in consequence, every one took what he had, I got a gold necklace two earrings and some rupees, there were in this dacoity Bhogoban Dooley, prisoner No. 24, and Nobin Ghose, prisoner No. 27, Soonder Sirdar, Nobin Sirdar and Madhub Doss, Hulla Teore and Gora Dooley, Ruttun Sirdar, Juttun Harree, Anund Gwallah and Dado Ishur, there were in all about twenty-five of us

Q.—Were you in the dacoity in the house of Pirtab Mookerjee of Kolora?

A.—Yes.

Q.—State the particulars?

A.—It took place ten years ago, Gopaul, Soonder Sirdar were the Sirdars and a servant of the house, whose name I forget, was the spy; a day previous to the dacoity, Soonder Sirdar gave me notice of it; after evening of the day of the dacoity, I and Dado Ishur left home and proceeding to a bridge on the road to the north of Moondoo Kholah, we sat down there. The rest of the gang had all arrived there then. It had been intended to commit a dacoity in Panchu jemadar's house of Moondoo kholah, but there was a row in the village from Panchu jamadar having been in some manner apprised of it, Bhogoban Dooley was a servant in Panchu's house, he must have apprised his master of it. He came from the village and said, The man has heard of it, and that's the row, it is no use your thinking of this dacoity, a

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man in our gang, who was a servant of Pertab Mookerjee, then said, "Come and have a dacoity in my master's house." We then quitted the bridge and adjourned to a shrine on a tank on Kolora south *mat*. We cut some bamboos out of a clump that was there, and prepared our weapons. Having made *poojah* at twelve at night, we went up to the Mookerjea's house. The sudder door was open, we went through it into the interior of the premises. The chowkeedar in the *chundeemundub* saw us and fled. We stationed sentries, but I can't remember who they were. There were two sets of houses, the outer and the inner, they were divided by a wall with a door in the centre. Some one scaled the wall and unfastened the door, and we entered into the inner houses having cut through the door of the lower room, ascending upstairs, we broke open the boxes and plundered them. The owner of the house had fled and we did not see him, we took the jewels off the women and then we left. The villagers did not oppose us. When we got on the *mat*, Annund and Manick ran off with the property they had, and we quarrelled among ourselves and there was no division, every one kept what he had, I got two pair of shawls and two silver *mulls*, and a necklace of pearls, and some pieces of cloth, and cash, several rupees; I sold the shawl to Sumboo Badoree and the *mulls* to Muddoo Boneek. There were in this dacoity Nobin Ghose, prisoner No. 27, Bhogoban Dooley, prisoner No. 24, Soonder Sirdar, Gopal Boona, Madhub Doss, Dado Ishur, Annund, Manick Gwalah, Ruttun Sirdar, Ishur Kurmee, Dabee Ghose, Nobin Ghose, approver Nobin Sirdar, we were in all twenty to twenty-five men.

Q.—Were you in the dacoity in the house of Satcowree Jolah, of Jolahparah?

A.—Yes.

Q.—State the particulars?

A.—It happened about eight years ago. Soonder Sirdar was the Sirdar, I can't recollect who the spy was; a day before the dacoity, Madhub Doss gave me information of it; about a *dund* or so of the day of the dacoity remaining, I went to Madhub Doss's house, and at evening he and I started together for a bridge on the Neekobassie south *mat*; when we got there, we found other dacoits. Going all of us to Jolahparah south *mat*, we sat down, and having cut some bamboos out of a clump there, we made up our weapons, we had brought a few with us besides. Making *poojah* there, we went off at twelve at night for the Jolah's house. Stationing sentries, one of the dacoits scaled the wall and unfastened the door, we all entered the premises. The door of the house in which the cloth was manufactured, was open, we plundered it of the cloth and the pots and pans in it, and then cutting through the door of the house in which the owner was asleep, and laying hold of him, we beat him. He said

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his property was in the box, breaking that open we got a hollow bamboo filled with rupees, and some *lottahs* and *kuttorahs* and cloth, we also took from the house-owner's wife, her jewels. Leaving, we went to the *mat*, the search had begun, but we began to quarrel and it did not go on, every one ran off with what he had, I got several rupees and pieces of cloth. There were in this dacoity Nobin Ghose, prisoner No. 27, Bhogoban Dooley, prisoner No. 24, Soonder Sirdar, Ruttun Sirdar, Dado Ishur, Madhub Doss, Ishur Kurmee, Nobaie Ghose and Bhoobun Sirdar.

Q.—Were you in the dacoity in the house of Bhyrub Chutterjee of Bankipore?

A.—Yes.

Q.—State the particulars.

A.—It took place five or six years ago, Bhoobun Sirdar and Nobin Sirdar were the heads of it, I was the spy, Bhoobun and I collected the men together at four or six *dunds* of the night of the dacoity, I left home alone and went to Jooga *talow* in Mooragurree village, Bhoobun Sirdar was there with several of his men, and Dookrea Moochee and others were there according to notice given them by me. We made *Kalee poojah* there, and at 12 o'clock, we went up to the house. The door was opened by one of us sealing the wall. The gang entered the premises, Bhoobun Sirdar and Muddun Gowallah were the sentries, I don't recollect who else was on sentry, I sometimes was on sentry, and sometimes I joined the plunderers; cutting through the house-door and going inside, we broke open the boxes and plundered their contents. The owner stood below the *verandah* screaming, one of our gang hit him on the head, and he fell down. The Bankipore fareedar at that time came up close to the sentries, and began to call out; Muddun Ghose, prisoner No. 26, hit the fareedar on the head and tumbled him over, hitting him a second blow on the arm, his sword fell out of his hand, Muddoo took up the sword, and leaving the fareedar lying on the ground, we departed; the division was made at Jooga *talow*, I got three rupees cash and a *tabeez*, we got about one hundred rupees worth of plunder; there were in this dacoity, Muddun Ghose prisoner No. 26, Jadoo Moochee, Nobin Sirdar Bindabun Potooa, Jadoo Bagdee, Nobin Karrar, Madhub Karrar, Annund Mussulman, Juttun Kowra and Pirlad Chung.

Q.—Were you present in the dacoity in the house of Gopeenath Mookerjee of Moshunda?

A.—Yes.

Q.—State the particulars.

A.—It happened five or six years ago, Bustee Haree was the Sirdar, Haro Gowalah was the spy, the latter gave me intimation on the day of the dacoity, when the day was near passed I started from home, and went to the Gopalbaree *chur* in Paie-

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gachee village, other dacoits of the gang were sitting there, Bunmalee Ghose brought the weapons from his house. There were at the *ghat* a number of small boats, taking one of them, we crossed ourselves over the river and went and sat on the Moshunda west *mat*, there making *poojah*, we went at 12 o'clock to the Mookerjee's house. The wall was scaled, the door opened, we entered the premises, who were on the *ghatee* I don't know, I was both on sentry and now and then joined the plunderers. There was in a house adjoining a *dhakee*, with it we battered down the door of the Mookerjee's house, and smashing the boxes, we plundered their contents, as we finished and were coming out, the villagers followed us, we fired a gun and they retreated, we got clear out, and getting on a boat and crossing the river, we got back to the Gopalbaree *chur*. There was a search and a division, I got a gold necklace and a silver bracelet and eight rupees cash. There was altogether about 400 Rupees worth of plunder, I also got an awning cloth. There were in this dacoity, Tara Alkoosee, prisoner No. 28, Hara Gowallah, Poota Gowallah, Raichurn Joogee, Beeru Baganee, Golabdee Nickaree, Bustee Haree and a companion of his a Moochee, whose name I don't know, and Dado Ishur, and Bhogowan prisoner No. 24.

Q.—Were you in the dacoity in the house of Odoychand Day of Nowpara?

A.—Yes.

Q.—State the particulars?

A.—It took place four or five years ago, Bustee Haree and Tara Alkoosee prisoner No. 28, were the Sirdars, Hara Gwallah was the spy, the latter gave me intimation. I left home on the day of the dacoity at evening, and went to the Gowalpara *chur* below Paiegachee, several men had got there before us, and the rest joined by degrees afterwards. After we had all joined, we got on a boat, and crossing the river, went and sat on the Nowpara west *mát*. We had our weapons with us. Having made *Kalee poojah*, at 12 at night, we went up to the Day's house. One of our number scaled the wall, and opened the door for us, when we went into the premises. Bustee Haree and Tara Alkoosee prisoner No. 28, were the sentries, the rest went up to the houses, I was with them. We got a *dhakee* from the next-door neighbour, and with it smashing the door of the Day's house, we went inside and plundered every thing. We did not find the owner, he had fled, as we were leaving, the villagers followed us, we fired a gun and they retreated. Having crossed the river, we went to the Gopalbaree *chur*, where there was a division of spoils, after which, we each went home. There was about 4 or 500 Rs. obtained in this dacoity. There were present in it Tara Alkoosee prisoner No. 28, Bhogoban Dooley prisoner No. 24, Bustee Haree and a companion of his,

a Moochee by caste, Dabee Ghose, Poota Ghose, Hara Gwalla, Golabdee Nickaree, Raiechrun Joogee, Dado Ishur Govind Bhur and Radhanath Ghose.

Q.—Were you in the dacoity in the house of Jadoo Kola of Satbangal?

A.—No.

Q.—Were you in the dacoity in the house of Nemaie Sirdar of Doyea?

A.—Yes.

Q.—State the particulars?

A.—It occurred eight years ago, Panchcowree Doss and Gopal Boona were the Sirdars, Praima was the spy. A day before the dacoity, I had intimation of it given to me by Madhub Doss, he told me that the dacoity was to be in the Kulna direction, and that I had better go on the day fixed to Golab Roy's house, and there eat, and there the whole matter would be finally arranged. Accordingly at 12 o'clock on the day of the dacoity, I went to Golab Roy's house in Kaleanoy, Madhub Doss and others were present there, but they did not say any thing to me that they intended to commit a murder in a dacoity, after that at two *dunds* of the day remaining, Praima Doss came and said, Nemaie Sirdar has turned informer, he will have you all caught with property on you to-morrow. On this, Golab Roy and Panchcowree Doss said, We will go to night and attack Nemaie Sirdar's house, and murder him. We all agreed, and just as it was evening, we started, one or two at a time, for a place called the Jagoolee *mát*. The whole gang arrived there, we brought a few bamboos and spears with us, and we made up some for ourselves at the abovesaid place, having cut bamboos out of a clump we found there. Having made *poojah*, Panchcowree attired like a burkundaz, and two others pretending to be chowkeedars, went ahead, the rest staid behind, Panchcowree went close to the house and called out, "Chowkeedar, chowkeedar," when Nemaie's fellow-chowkeedar arrived, Panchcowree asked him where Nemaie Sirdar was, he said, He is asleep inside and sick, the chowkeedar then left for his own Mohulla. We went and stood near Nemaie's house, Panchcowree Doss and Gopal Boona having gone inside the premises, called out to Nemaie, I and some others also went inside. Nemaie was inside, he opened the door and came out, Panchcowree immediately began to hack at him with a *koolharee*, and some others battered him with their clubs, Nemaie's body being cut in pieces, we left, we took no property, Nemaie's son was at home and he was also beaten; Nobin Ghose, Panchcowree Doss, Praima Doss, Madhub Doss, Soonder Sirdar, Golab Roy, Gopal Boona, Dado Ishur, Ishur Kurmee, Nobaie Ghose were among the dacoits, we were in all twenty or twenty-five of us.

The evidence of Raiechrun Joogee approver, witness No. 3.

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Being interrogated says, I know the prisoners.

Q.—Did you commit the Satbangal dacoity?

A.—Yes.

Q.—State the particulars?

A.—It occurred two or three years ago. Bhogoban Dooley, prisoner No. 24, was the Sirdar, he was also the spy, he gave me intimation of the dacoity, the night the dacoity was to take place I left home at four or six *gurries* and came to the Poonae *mát*, there were several men assembled there, some more arrived afterwards. Budden Dooley brought bamboos, &c. from his house in Poonae. Leaving that, we went to the *mát* either west or east of Satbangal, there we performed *Kalee poojah* and at two and half *purs* of night, we went up to Jadoo Kolu's house, some one scaled the wall and undid the outer door, we entered the premises, Bholanath, Kishto Dooley and Pran Dooley and two others were the sentries, the rest having gone to the house and cut through the doors, plundered the boxes. When the door was being cut through, I left the gang and went to the sentries, I did not join the plunder, I was on sentry and I heard from Doorga Bagdee at the time that Bhogoban Dooley had taken a child of the Kolu in his arms, and threatened, if the money was not produced, that he would burn the child. On this, a woman pointed out a box with money in it, and the woman making a cry, the villagers arrived in numbers, and began to offer us fight. One of the sentries called the gang out of the house, and we left. The villagers followed us for a quarter *coss* they then retired, we collected the plunder together on the *mát*, and were about to divide it, when the villagers 10 or 12 in number, came up with *lattees* in hand, and one of them struck Bhogoban Sirdar prisoner No. 24. We left the brass things on the ground and every one carried off the money and the jewels he had by him. There was no division, Bhogoban carried off a *lota*, no one else took any of the brass things. Bhogoban also hit a chowkeedar on the *mát*. After this every one came home, I can't recollect what I obtained. There were in this dacoity Bhogoban prisoner No. 24, Kishto Dooley, Pran Dooley, Buddun Dooley, Gosaie Doss Charal, Lalchand Dooley, Doorgacharun Bagdee, Madhub Kurrar, Nobin Kurrar and Bholanath Dooley.

Q.—Was the case investigated?

A.—Yes. A *lota* was found in Bhogoban's house, and recognised by the Kolu, but Bhogoban was released.

Q.—Were you in the Nowpara dacoity in the house of Odoychand Dey?

A.—Yes.

Q.—Who was the Sirdar or Sirdars?

A.—Tarachand Gwallah and Tunnoo Kainda.

Q.—Who was the spy?

A.—Hurchunder Ghose Gwallah of Goopteepara.

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Q.—Who gave you intimation?
A.—Nemaie Nickaree did so at my house.
Q.—When?
A.—On the day the dacoity was to be.
Q.—Where did you live?
A.—At Shoomra.
Q.—Where did Nemaie live then?
A.—At Shoomra.
Q.—How far is Shoomra from Nowpara?
A.—Four or five *coss* across a river.
Q.—Where was the place of gathering?
A.—On the river bank below Soojapoor *chur*.
Q.—Did you go alone?
A.—Alone.
Q.—What time did you reach the place appointed?
A.—At six *dunds* of night.
Q.—Who brought the weapons or where did you get them from?
A.—Bunmalee Ghose of Soojapoor brought them to us.
Q.—How far is Soojapoor from the house where you committed the dacoity?
A.—Three or three and half *coss*.
Q.—Did you go at once from the *chur* to the Day's house, or did you stop any where on the road?
A.—We went up straight without stopping, crossing the river.
Q.—Where was the *Kalee poojah* made?
A.—The other side of the river, on the river-bank.
Q.—How far was the place where you made *poojah* from the Day's house?
A.—Three *coss*.
Q.—Did you find the owner at home?
A.—Yes, he was sleeping inside his house on a platform.
Q.—Did you ill-use him?
A.—We did beat him slightly in order to get his money out of him, we snatched his weapon, a Nepal sword from him.
Q.—What became of the sword?
A.—I had it in my possession.
Q.—Have you it now?
A.—No, Madhub Roy of Kulna took it forcibly from me.
Q.—Did you complain about this?
A.—No, I got it in a dacoity, I was afraid to say any thing about it.
Q.—Did you get any plunder in this dacoity?
A.—I got a quilt and a *ghurra*.
Q.—Was there any division?
A.—Yes.
Q.—Where?

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A.—On the river-bank on the other side of the Soojapoor *chur*.

Q.—Were any of you apprehended in this case?

A.—No.

Q.—Who were the gang on this occasion?

A.—Tara Alkoosee, prisoner No. 28, Tunnoo Kainda, Hurchunder Ghose, Muddoo Mussulman, Kotobdee, Rajoo Mussulman, Boolchand Ghose, Bunmalee Ghose, Radhanath Ghose, Nemaie Nickaree, Bassee Jullea and myself, I can't recollect any more.

Q.—Were you present in the dacoity in the house of Gopeenath Mookerjee of Moshunda?

A.—Yes.

Q.—Who were the Sirdars?

A.—Tara Alkoosee, prisoner No. 28, and Tunnoo Kainda.

Q.—Who was the spy?

A.—Bhoobun Kait of Goopteepara.

Q.—Who informed you?

A.—Nemaie Nickaree.

Q.—How long before the dacoity?

A.—The very day of the dacoity.

Q.—What place was fixed for the assemblage?

A.—The Rampoor *chur* on the river side, the *chur* is a very small one.

Q.—What time did you go there?

A.—At one *pur* night.

Q.—Did you go alone?

A.—Yes.

Q.—Did you see any of the gang when you arrived there?

A.—Yes, five or six persons, others arrived after that.

Q.—Where was the *poojah* made?

A.—On a fallow bit of land, from five to ten Beegahs west of the house.

Q.—How far is that from the Rampoor *chur*?

A.—Four *coss*.

Q.—Who provided weapons for this dacoity?

A.—We took them with us. Bhoobun furnished them.

Q.—Where did he give them to you?

A.—On the Rampoor *chur*.

Q.—Where did he get them from?

A.—From his house at Goopteepara.

Q.—How far is Goopteepara from Rampoor *chur*?

A.—About quarter *coss*, or a little more.

Q.—Did you find the owner of the house at home?

A.—No, he was a salt darogah.

Q.—Did you find his women?

A.—Yes.

Q.—Had they any jewels on?

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A.—Yes, and we broke open a chest and got some money out of it, and also out of a cellar below the stairs.

Q.—Was any one injured in this dacoity?

A.—No, we fired a gun and the villagers fled.

Q.—Was there any division?

A.—Yes.

Q.—Where?

A.—On the river bank opposite Rampoor *chur*.

Q.—Who were in this dacoity?

A.—Tara Alkoosee, prisoner No. 28, Muddun Gwallah, prisoner No. 26, Bhogoban, prisoner No. 24, Bhoobun Kait, Tunnoo Kainda, Ruttun Bhawa, Gora Haree, Muddoo Mussulman, Kotobdee, Bunmalee Ghose, Radhanath Ghose, Bustee Haree Neemchand and I.

Madhub re-called and examined.

In the Jerat dacoity you have said that you and Soonder left the latter's house and went to a tamarind tree appointed for the gathering, did any one else go with you?

A.—Yes, others did go, but I do not recollect who.

Q.—Did you call them or did they come to you?

A.—Soonder came to my house and so did Nemaie.

Q.—You have said that Bhogoban and his brother, Dookrea, brought you bamboos, &c., did they do this before you arrived or after?

A.—After.

Q.—How far is Bhogoban's house from the tamarind tree?

A.—A quarter or one-eighth of a *coss*.

Q.—Was Nemaie Nickaree among those who went with you to the tamarind tree?

A.—Yes.

Q.—Did Nemaie come alone to Soonder's house?

A.—Alone.

Q.—You have said that Teencowree Charal was the spy in the Kolora dacoity, who is he?

A.—He is the Kanpara Chowkeedar.

Q.—Has he any other occupation?

A.—He cultivates some land.

Q.—Has he any concern with Pertab Mookerjah?

A.—I can't say.

Q.—You have said that you intended to have committed a dacoity in Panchu Jemadar's house, but there was an uproar there, and you were not able to do as you intended, what was the uproar about?

A.—The uproar was on account of our assemblage. Bhogoban and Dookrea were bringing us bamboos and were seen so doing, this gave rise to the report that dacoits were near.

Q.—Did Bhogoban come up to you?

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A.—Yes, he said, There is a great row, you had better be off, whether he remained with us or went away, I can't say.

Q.—You said that Bhogoban was not able to come to you on account of the uproar in the village and now you say he did come, how do you reconcile this?

A.—I did not recollect to say above what I have last said.

Q.—You say Tincowree gave you the information. Nemaie says a servant of the house did so, who is that servant?

A.—Tincowree is not, certainly, and I don't know the man alluded to.

Q.—Did you make *Kalee poojah* in the place you had assembled at to commit the intended dacoity in Panchu Jamadar's house?

A.—No, we left it for Baba Takoor's astan, near a clump of bamboos to the south of Kolora, there made *poojah*.

Q.—You have said in your account of the Doya dacoity that Pagla Boona beat Nemaie Sirdar with a club. Has he any other name?

A.—He is also called Kishto Boona.

Q.—In what direction from Nemaie's house is the Jagoola *mát*?

A.—West.

Q.—Are there any *baubul* trees there?

A.—Yes.

Q.—You were to have committed a dacoity in Pandoa, but you altered your plans and committed the Doya dacoity, when did you settle to do so?

A.—We left Golab Roy's house and after we reached *Solahbeegah*, we determined on going to Nemaie's house, nothing was said of this alteration of plans in Golab Roy's house.

Q.—You say Pagla Boona beat Nemaie Sirdar, Nemaie Nickaree says it was Gopal Boona, how is it there is this difference?

A.—I never saw Gopal Boona that night. Nemaie takes Pagla Boona, who is also called Kishto Boona, for Gopal Boona.

Q.—Did you inform any one of the Jolahpara dacoity?

A.—I informed Nemaie and Soonder.

Q.—Did you go alone to the Nokoobosaie *mát*?

A.—I went alone.

Q.—What land-mark is there on the Nakoobasaie *mát*?

A.—There are some palm trees, a bank of a tank, and a bridge on the road.

Q.—How far is Bhoobun and Chundee's house from that bridge?

A.—Bhoobun's house is half *coss* and Chundee's 15 or 16 *beegahs* off.

Nemaie Nickaree re-called and examined.

Q.—You have said in your description of the Jerat dacoity that Bhogoban had reached the tamarind tree before you, and

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that he had provided bamboos, &c. Did he bring these before or after you arrived?

A.—This I can't say. I saw some bamboos, &c., when I arrived, and others were brought afterwards.

Q.—Did you see any women in the Mookerjah's house?

A.—Yes, I can't say if they had any ornaments on them or not.

Q.—Do you know Teencowree Charal?

A.—Yes, I have known him all along; he is a dacoit. I can't say if he is alive.

Q.—Did you ever join him in any dacoity?

A.—Yes.

Q.—Was he in the Kolora dacoity.

A.—I can't say.

Q.—You intended that night to commit a dacoity in Panchcowree's house, did you not?

A.—Yes.

Q.—You have said that Bhogoban went with you on the Kolora dacoity. It is possible after the uproar in his master's house (Panchu Jamadar) that he would dare venture to join the gang of dacoits who had just been detected in a meditated attack in his master's house? would he not have been suspected by all the people of Panchu Jamadar's village?

A.—How can I answer this.

Q.—In the Jolahpara dacoity was any severity used towards the owner of the house?

A.—Yes, he was beaten and his beard was plucked out. I did not recollect to mention this above.

Q.—In your description of the Doya dacoity, you have said, Gopal Boona beat Nemaie Sirdar, has he any other name?

A.—Gopal Boona is also called Kishto Boona and Manjee also, he has three or four names. Pagla Boona is quite a different person, they call Gopal, Pagul too.

Q.—Where did Praima say Nemaie had turned informer and must be killed?

A.—In Gopal Roy's house.

Q.—Was Madhub Doss there then?

A.—Yes, but I can't say if he was there at that particular time. I heard he is at Golab Roy's house.

Q.—Do you know where the *Solah beegah* is?

A.—No.

Q.—Did you visit the Koegurrea *mát* at any time during the night that you were engaged on the dacoity in Nemaie's house?

A.—I don't know any such *mát.*

Q.—How far is Panchcowree's house from Doyea?

A.—Three *coss* or less.

Q.—Do the people of Doyea know Panchcowree?

A.—I can't say.

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The subjoined statement shows the result of the approver evidence as regards the identity of the prisoners in each of the eleven cases to which I limited the examination of the approver.

Number and name of prisoners.	No. 1	No. 2	No. 3	No. 4	No. 5	No. 6	No 7	No. 8	No. 9	No. 10	No. 11	
	Jeerut dacoity.	Chackloe dacoity.	Kalora dacoity.	Doyea dacoity.	Jolahpara dacoity.	Goura dacoity.	Bankipoor in the house of Byrob Chunder.	Moshunda dacoity.	Nowpara dacoity.	Satbangal dacoity.	Bankipoor dacoity in the house of Mohesh Pal.	Remarks.
	Approvers Nos.	Approvers	Approvers	Approvers	Approvers	Approvers	Approvers	Approvers				
24, Bhogoban Dooley, ...	1-2 *1-2*	1 ..	2 2*	1 ..	1-2 *1-2*	.. ..	.. ..	2-3 *2-3*	2 ..	3 3*	.. ..	The figures marked * refer to the evidence before the dacoity commissioner.
26, Modun Ghose, ...	..	..	..	..	..	1 1*	2 2*	3 ..	.. ..	. ..	1-2 1*	

N. B.—Madhub Das, approver, witness No. 1.
Nemaie Nickaree, ditto, ditto No. 2.
Raie Churn Joogee, ditto, ditto No. 3.

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Case of BHOGOBAN DOOLEY and others.

In three cases, the Jerat, the Jolahpara, and the Mooshunda affairs, there is the joint testimony of two approvers against the prisoner No. 24, Bhogoban Dooley. Their account of two of these three said dacoities, tallies well together, and agrees also in all essential points with the facts as they were ascertained by actual enquiry at the time. We are assured, because it is a standing rule in the department, that on the arrest of persons on the information of an approver, they are not allowed to communicate with the informer and are kept distinct from men implicated in the same cases; Madhub Dass, witness No. 1, was apprehended on the information of witness, No. 2, and if, as we are bound to allow, that Madhub did not communicate with his accuser between his arrest and his confession, the coincidence of both approvers naming the prisoner, and very nearly the same set of men in the same dacoities, is a strong ground for presuming. that they are both speaking from that certainty which personal concern in the acts deposed to, could alone enable them to do, and that the men, whom their united testimony implicates, must have been really engaged with the approvers in the dacoities they both agree in laying to the charge of the prisoner. That the approvers are entitled to be believed when they speak of persons, is apparent from the great similarity of the names they each furnish of the persons who were concerned with them in the several crimes they depose to. This could not have happened were they either of them speaking from guess, it could not happen even if they had managed to violate the rules, and get occasional opportunities of intercourse; for short intervals of communication would not suffice to learn by heart various sets of names, some of which were to be used on one occasion, and some in another; and as there is a remarkable correspondence as to names in the respective accounts of the same dacoities by the approvers, I cannot avoid the conclusion that the prisoner is guilty, or else there could not have been this agreement.

But the Satbangal case in which the approver witness, No. 3, Raiechurn Joogee, is alone the deponent, affords other proof, besides the evidence of an associate, that the prisoner is a dacoit in this case, the prisoner was recognised in the act, by Banshee Chowkeedar and two others, but recognitions not being generally deemed satisfactory evidence in cases of dacoity (and that by Banshee I must say does *not appear* very credible) the prisoner was acquitted by the magistrate. The prisoner was, however, distinctly sworn to by the parties above named, and as that recognition is now confirmed by a witness, who certainly had the best means of knowing who was in the dacoity, all doubt as to the goodness of the recognition is completely removed.

The prisoner is further shown to be a man of noted bad character, and the evidence now establishes that this was not without abundant reason.

1855.

December 21

Case of BHOGOBAN DOOLEY and others.

Against Muddoo Ghose, prisoner No. 26, there is no great evidence. No two approvers implicate him in the same case, but I am still of opinion that there is proof that the prisoner is guilty. In the dacoity in the house of Bhoyrob Chatterjeah of Bankipoor, he was named by Jadoo Moochee who confessed that crime, Jadoo was himself recognised in the act, as well as witness No. 2,* who now gives his testimony to the truth of the recognition. The accusation of a fellow-prisoner is no corroboration, legally speaking, against any but himself, but it may, and generally does, have the effect of leading the mind to give greater credibility to the evidence of a witness against the party, so named by his fellow in guilt. The implication of the prisoner by Jadoo Moochee in his confession does strengthen my belief of the evidence of witness, No. 2, Nemaie Nikarie, in the particular case, and of witness No. 1, Madhub Das Kyburt, in the Goara dacoity; and as the records appended to the trial, contain proof of bad character, sufficient to give rise to a presumption that the prisoner was given to crimes of the same sort, I think that the evidence, *combinedly*, is adequate for proof that the prisoner has been a dacoit.

* Nemaie Nickarie.

The defence of Bhogoban Dooley, prisoner No. 24, is contained in a petition in which it is stated that when the approvers implicated him in the dacoity in the house of Shama Churn Mookerjeah of Dadpoor, and of which he was tried and acquitted, they did not do so in the cases now brought forward against him, and that he is on bad terms with the approvers, on which account they have combined to get him imprisoned.

The defence of Muddun Ghose, prisoner No. 26, is also contained in a petition which sets forth that when he was denounced by the same approvers in another dacoity of which he was tried and acquitted, those now brought forward against him were not laid to his charge, and that he has had many disputes with witness No. 2, who lives in the same village, of which he gives a specimen of one in his defence, by which it appears that he and witness No. 2, were rival suitors for female charms in the same quarter, and that this rivalry led to blows on one occasion.

Neither prisoner named any witnesses.

In regard to that part of the defence which avers that the approvers did not name the prisoners in the dacoities now charged against them till after the termination of the trial in which the prisoners were formerly acquitted, that is altogether an incorrect statement, for the prisoners were named in the dacoities specified in the calendar by the approvers from the very first, and long before their commitment on the charge on which they were formerly tried.

1855. December 21. Case of BHOGOBAN DOOLEY and others.

I would, upon the grounds detailed above, convict both prisoners of having belonged to a gang of dacoits, and sentence them to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A Dick and B. J. Colvin.) The evidence against the prisoner Bhogoban Dooley prisoner No. 24, consists of the testimony of all three approvers. The testimony of two of them would of itself have been untrustworthy against the prisoner, as they had been convicted in a former case of giving false testimony against him and others, on the most satisfactory evidence (see page 156 Nizamut Report, July 1854). There is however the testimony of the 3rd approver, Raichurn, which is corroborated by the fact of the prisoner having been clearly recognized at the time and immediately named by four persons in the Satbangal dacoity, to which Raiechurn testifies, and names Bhogoban Dooley. The plea set up in defence by the prisoner that all three approvers have named him as concerned in the dacoities, with which he is now charged, after he had been acquitted on the 29th July 1854, is not true. Raichurn having named him first on 10th February 1854, Nemaie on the 27th October, 1853, and Madhub on the 18th January, 1854.

The evidence against the prisoner Muddun consists of the testimony of the three approvers naming him as concerned in separate dacoities. No two of them name him in the same dacoity; but there is a very strong corroboration of the testimony of Nemaie as to his being an accomplice in the Bankipoor dacoity. He and Nemaie were both recognized, and immediately named, and both were subsequently named by an accomplice, who confessed at the thannah and before the magistrate.

We therefore convict both prisoners of the charge, and sentence them to transportation for life.

PRESENT:

J. H. PATTON, ESQ., *Judge*.

GOVERNMENT AND GAYANATH MUNDUL *versus* RAMGOPAL MUNDUL.

Beerbhoom.

1855.

December 21.

Case of RAMGOPAL MUNDUL.

The prisoner who had admitted his guilt throughout, sentenced to five (5) years' imprisonment with labor and irons. There seemed to be no deliberate intention to *kill* the deceased on the part of the prisoner.

CRIME CHARGED.—Wilful murder of Rammohun Mundul, father of Gayanath Mundul, prosecutor.

CRIME ESTABLISHED.—Culpable homicide.

Committing Officer – Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 27th October, 1855.

Remarks by the sessions judge.—It appeared from the evidence for the prosecution that the prisoner, uncle of the prosecutor, had given a cow and a calf to the prosecutor and his father, the deceased, to take care of. On the evening of the 10th July last, the cow and calf were returning from the plain, when the prisoner took them to his own house. On the prosecutor and his father going to bring the cattle back, they were opposed by the prisoner, a scuffle ensued and the prisoner struck the deceased a blow on the right side, under the ribs, with a bamboo stick (about four feet long and not so thick as a man's wrist) which was used to fasten the *tattee* or outer door of the prisoner's yard; the deceased fell but got up again, and after walking about twenty-two hàths fell senseless, in which state he was carried to his house and died at 8 P. M. Information was immediately sent to the thannah and the darogah came to the village next day and held an investigation, resulting in the prisoner's recording a full confession of his guilt.

From the civil surgeon's report, dated 13th July, the body appears to have been in such a state of decomposition as to preclude the possibility of a *post mortem* examination.

Before the magistrate, the prisoner repeated his confession before the darogah to the effect that a dispute took place between him and the deceased, about some money lent by him to the latter, and about the cattle, and that he struck the deceased a blow of which he died shortly after.

In his defence before this court, the prisoner admitted having wounded the deceased with the bamboo stick produced in court, but urged that he did so in a fit of anger, and that he did not intend to kill the deceased.

The jury returned a verdict of guilty of "culpable homicide" and as the prisoner's own confessions and defence clearly proved him to have struck the deceased, his brother, aged seventy-five years, and thereby caused his death three hours after, for the most

trifling provocation, I sentenced him in concurrence with the above verdict, to five (5) years' imprisonment with labor and irons.

Remarks by the Nizamut Adawlut.—(Present: Mr. J. H. Patton.) I see no reason to interfere with the conviction of the prisoner. His plea of guilty throughout is conclusive of his guilt. The fatal blow was dealt in a scuffle in which the deceased and the prisoner were engaged, and was clearly not intended to kill.

1855. December 21. Case of RAMGOPAL MUNDUL.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS. *Judges.*

GOVERNMENT

versus

DHUNA MANJHEE SONTHAL (No. 1, NON-APPELLANT,) SOOMEE MANJHIAN SONTHALIN (No. 2,) SONA MANJHIAN SONTHALIN (No. 3,) DILGI MANJHIAN SONTHALIN (No. 4.)

Beerbhoom.

1855. December 21. Case of SOOMEE MANJHIAN SONTHALIN and others.

Nos. 2, 3 and 4 females appealed. But as by their own confessions they were implicated in a plundering expedition, the conviction and sentence upon them by the lower court was upheld.

CRIME CHARGED.—Illegally and riotously assembling with offensive weapons for the purpose of plunder and committing a breach of the peace.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 13th October, 1855.

Remarks by the sessions judge.—The prisoners plead *not guilty.*

From the record it appears, that on information being received by Serjeant Gillan, witness No. 1, who had been deputed with a burkundaz-force to check the depredations of the rebels, that a body of Sonthals were approaching the village Juggutpore, in thannah Nangooleah of this district, with the view of plundering it, he advanced with some of the men under his command and met the rebels about 300 in number, armed with bows and arrows, *tanghees* or axes and other weapons a short distance from the village; on his demanding from them their intentions and the cause of their thus assembling with arms, they fired a volley of arrows at his party, thereby offering opposition and bidding defiance to his authority; on the Serjeant then directing his people to fire on them, some men were knocked over and supposed to have been killed, but in consequence of the rebels removing them forthwith into the jungles their fate could not be correctly ascertained, a woman unfortunately was wounded

1855. December 21. Case of Soomre Manjhian Sonthalin and others.

but being the wife of the prisoner No. 1, he with his daughter, prisoner No. 4, and the other female prisoners Nos. 2 and 3, remained by her and were endeavoring to carry her off, and were consequently captured.

Before the magistrate the prisoners recorded confessions of their guilt to the effect, that they had at the instigation of the hill people of zillah Bhaugulpore, joined the rebel forces for the purpose of plundering villages, and that they had left their homes in Kadooreah, thannah Doomkah, zillah Bhaugulpore from fear of the troops, and had taken up their abodes in a hill called Kurrakattee Pahar, they however denied the charge of plunder or opposing the troops or police.

Before this court though pleading *not guilty* they admit the correctness of their confessions recorded before the magistrate.

The jury convict the prisoners of the offence charged in the calendar, in which verdict I fully concur.

The confessions of the prisoners show them to have quitted their own village in zillah Bhaugulpore for the express purpose of plunder, and the evidence for the prosecution clearly establishes the fact of their being arrested when in company with and forming a portion of a body of armed Sonthal rebels, then assembled for the purpose of plundering Juggutpore or other villages within the limits of this district, and that they offered opposition to the officers of police in the execution of their duty; the evidence also shows the prisoner No. 1, to have been a principal or leader of the rebels and to have ordered them to fire on the Government Officers; I therefore sentence him to seven (7) years' imprisonment with labor and irons and the rest in consideration of their sex and age to shorter terms as follows.

Sentence passed by the lower court.—Prisoners No. 3, to be imprisoned for one year and Nos 2 and 4, for six months, No. 3, to pay a fine of 50 Rs. and Nos. 2 and 4, of 25 Rs. each, in a month in lieu of labor, or, in default, to labor until the fine be paid, or the term of sentence expire.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The women, who have appealed, are clearly shown by their confessions to have accompanied the men of their village on a plundering expedition, when they were met and apprehended in the manner stated by the sessions judge. We see no reason to interfere with the conviction and sentence.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS. *Judges.*

GOVERNMENT AND BRIJOKISSORE DASS
versus
KHETOO MOOCHEE (No. 1,) AND MUDDUN MAL CHOWKEEDAR (No. 2.)

Beerbhoom.

1855.

December 21.

Case of KHETOO MOOCHEE and another.

The guilt of No. 1 who admitted his mofussil and foujdary confessions was clear. The confession in the mofussil by No. 2, was open to suspicion and the evidence being insufficient to convict him, he was released.

CRIME CHARGED.—1st count, Nos. 1 and 2, dacoity committed in the house of Brojokishore Dass prosecutor, from whence property, valued at Rupees 341-5, was plundered; 2nd count, No. 1, knowingly receiving and retaining property acquired by committing the above dacoity.

CRIME ESTABLISHED.—Dacoity committed in the house of Brojokishore Dass, prosecutor from whence property, valued at Rupees 341-5, was plundered.

Committing Officer.—Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. F. Lowth, sessions judge of Beerbhoom, on the 30th October, 1855.

Remarks by the sessions judge.—This case was tried by me under Act XXIV. of 1843.

The prosecutor's house was attacked by some twenty or twenty-five dacoits, on the night of the 2nd Assin or 17th September last, and plundered of property valued at Rupees 341-5, of which articles, Nos. 1 to 6, a silver ornament and five pieces of cloth, to the value of Rupees 8-8, were recovered.

On hearing the noise of the dacoits, the prosecutor awoke and on going to the apartments occupied by his brother, Neelkant Dass, witness No. 1, found him tied by the hair of his head to a post and some of the dacoits who had lighted torches in their hands, standing by him and others engaged in plundering the rooms on that side of the house. The prosecutor ran off in search of the Chowkeedars but none were forthcoming or replied to his calls. Some of his neighbours then collected and were informed of what had happened, but none of them ventured near the spot until after the departure of the dacoits, when the prosecutor returned home and was told by his brother that he had recognized prisoner, No. 2, who had stood over him with an axe and threatened his life, and several others amongst the dacoits.

The evidence adduced in support of the charge clearly proves the dacoity to have been committed, and the prisoner, No. 1, to have been arrested by Tara Churn Singh, Burkundauz, and other police Chowkeedars, witnesses Nos. 2, 3 and 4, shortly after the occurrence, with property marked 1 to 6, produced

1855. December 21. Case of KHETOO MOOCHEE and another.

in court in his possession, and which has been duly sworn to and proved to have formed a part of the plundered property.

Before the darogah and the magistrate the prisoner, No. 1, confessed that at the instigation of the other prisoner he had joined in the dacoity and received the property found on him.

Prisoner, No. 2, confessed before the darogah to having committed the dacoity in company with the other prisoner and received a portion of the plundered property. He also gave up a *lattee* which he declared himself to have used on the occasion.

In this court prisoner No. 1, admitted both his mofussil and foujdary confessions and urging nothing in extenuation, threw himself on the mercy of the court.

The prisoner, No. 2, denied having had any participation in the dacoity and declared his mofussil confession to have resulted from ill-treatment received from the police, but he was unable to produce any evidence in support of his assertion either before the magistrate, though particularly questioned on the point, and to establish his plea before this court he cited no witnesses. There is therefore nothing to suggest a doubt as to the truth of his confession before the darogah, which has been duly attested and proved to have been voluntarily and freely made. This confession, taken with that made by prisoner, No. 1, in which he is named as one of the principals in the dacoity, and the fact of his having been recognized by witness No. 1, amongst the dacoits at the time of the perpetration of the crime, whilst holding an axe over him in a threatening attitude and so close to the witness as to enable that party to be most certain as to his identification, in my opinion proves his guilt beyond a doubt. Under these circumstances I convict both the prisoners and sentence them as follows. Prisoner No. 2, being a chowkeedar, to be imprisoned for ten years with labor in irons; prisoner No. 1, to be imprisoned for seven years with labor in irons, and jointly and severally to pay a fine of Rupees 335-13 under Act XVI. of 1850

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) There is no reason to doubt the guilt of the prisoner Khetoo, as he admits the truth of the mofussil and foujdary confessions; but against the prisoner Muddun there is nothing but the alleged recognition of him by the prosecutor's brother on the night of the dacoity. As we do not like to place any reliance on the mofussil confession of this man, considering this evidence, therefore, insufficient for his conviction, we direct his release.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

SING RAE MANJHEE SONTHAL (No. 41,) NUFFER PAL KOOMAR (No. 42, APPELLANT.)

Beerbhoom.

1855.

December 21.

Case of NUFFER PAL KOOMAR.

The appellant was released, as no overt act was proved against him. His supplying the Sonthals with the produce of his trade was no crime, under the circumstances of the case.

CRIME CHARGED.—Illegally and riotiously assembling, with offensive weapons, for the purpose of plunder and to commit a serious breach of the peace.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. A. R. Thompson, officiating magistrate of Beerbhoom.

Tried before Mr. F. Lowth, sessions judge of Beerbhoom, on the 12th November, 1855.

Remarks by the sessions judge.—The evidence for the prosecution shows the prisoners to have belonged to a party of rebels who had assembled at mowzah Asnah, and on the police force under Serjeant Gillan advancing to that village, in execution of orders, offered defiance to his authority; on the main body being routed the prisoners were seized by witnesses, Nos. 1 and 2, Bhyrub Misser and Ajoodhealall jemadars, and one of them, viz. prisoner No. 41, with a bow and arrows. This prisoner also made a confession of his guilt before the magistrate to the effect that he had, in company with several other Sonthals, plundered mouzah Hinjolah in this district, and although the other prisoner, No. 42, denied his participation in the above outrage, yet he admitted his having regularly supplied the rebels with earthen vessels, during the time they were plundering villages in all directions, and that he quitted his original place of residence for a Sonthal village.

Before this court the prisoners though pleading *not guilty*, yet admitted the correctness of the confessions recorded by them before the magistrate; from those records it is clear that the prisoners were arrested as stated by the witnesses, that No. 41 had been engaged in the plunder of the village Hinjolah, and No. 42 had been connected with the insurgents for several months, during the time they were plundering several villages in this zillah.

In the verdict of guilty, returned by the jury I fully concurred, and, therefore, in consideration of the circumstances above detailed and the frightful amount of loss caused by the insurgents to both life and property in this district, I sentenced both prisoners to five years' imprisonment each with labor in irons.

1855. December 21. Case of NUFFER PAL KOOMAR.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We see nothing to criminate the prisoner, who has appealed, Nuffur Pal. He is a potter and admits having sold his wares to the Sonthals. As, however, it is manifest that the authorities were unable to afford him any protection, the only choice he had was either to sell them or allow them to be taken by force. He accounts for being in the village in which he was apprehended by stating that he went there to join some of his caste. As no overt act is proved against the prisoner, we consider him entitled to his release.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT

versus

CHUNDER ALIAS CHEYDOO HAREE.

Hooghly. 1855. December 21. Case of CHUNDER *alias* CHEYDOO HAREE.

Prisoner convicted, on his own full confession, of having belonged to a gang of dacoits.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunderseker Roy, deputy magistrate under the commissioner for the suppression of dacoity.

Tried before Mr. G. G. Mackintosh, sessions judge of Hooghly, on the 14th November, 1855.

Remarks by the sessions judge.—The prisoner is charged with having belonged to a gang of dacoits, he confeseed before the deputy magistrate, acting under the orders of the commissioner for the suppression of dacoity, that he gains a livelihood by dacoity and has, during the past five years, been engaged in the gangs of Sona Fukeer and others in the commission of ten dacoities in the Burdwan and Hooghly districts. He pleaded guilty at the trial, and acknowledged the truth of his confession, which is corroborated by the confessions and evidence of the approvers Jadoo Dome and Sona Fukeer, witnesses Nos. 1 and 2, and by the records of the several cases noted below.

Witness No. 3, Gopal Misry.
" " 4, Joynarain Chuckerbutty.

The voluntary nature of the confession is likewise proved.

I therefore convict the prisoner of the charge and recommend that he be sentenced to transportation for life.

1. Dacoity committed on the 25th April, 1852, at the house of Ramcoomar Biswas, mouzah Tengah, thannah Suleemabad, zillah Burdwan.

2. Dacoity committed on the 30th January, 1854, at the house of Khethur Mohun and Ramjeebun Newgee, in the village of Khodool, thannah Suleemabad, zillah Burdwan.

3. Dacoity committed on the 8th March, 1854, at the hous[e] of Kally Purshad in mouzah Joolkhool, thannah Dhunniakhally.

4. Dacoity at the house of Cassoe Nath Doctor, at Beerpallah, thannah Bansbareah, zillah Hooghly, 37th December, 1853.

5. Dacoity at the house of Dhonna Sheikh, mouzah Coolhareah, thannah Pandooah, zillah Hooghly, 3rd December, 1853.

6. Dacoity at Mohun Mundul's house, mouzah Hejeepoor, thannah Dhunniakhally, zillah Hooghly, 3rd February, 1854.

7. Dacoity at Ram Puran Dullub's house in Sarrungpoor thannah Sulleemabad, zillah Burdwan, 4th March, 1854.

8. Dacoity at Annundo Mundul's house, in mouzah Antee thannah Pundooah, zillah Hooghly, 5th November, 1855.

9. Dacoity at Ramdhun Halder's house at Dhamas Culna 29th October, 1853. (This case was concealed.)

10. Dacoity at Gousee Sheikh's house in Ramkishtopoo[r] about one and a half year ago, (concealed.)

Remarks by the Nizamut Adawlut.—(Present: Messrs. A Dick and B. J. Colvin.) We convict the prisoner of having belonged to a gang of dacoits on his own full confession an[d] plea of guilty. We sentence him, therefore, to transportatio[n] beyond sea, with hard labor and irons for life.

1855 [illegible]

December 2

Case of CHUNDER *alias* CHEYDOO [illegible]

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

UMRIT ROY BHOONYA (No. 22,) BOODHUN ROY BHOONYA (No. 23,) BURSAL ROY BHOONYA (No. 24,) 2ND UMRIT ROY BHOONYA (No. 25,) AND HOOLAS ROY BHOONYA (No. 26.)

Beerbhoom.

1855.

December 21.

Case of UMRIT ROY BHOONYA and others.

Appeal of prisoners rejected and conviction on the grounds of their own confession before police and magistrate, up[held]

CRIME CHARGED.—Illegally and riotously assembling with offensive weapons for the purpose of plunder and committing a breach of the peace.

CRIME ESTABLISHED.—As crime charged.

Committing Officer.—Mr. H. Rose, magistrate of Beerbhoom.

Tried before Mr. F. Lowth, sessions judge of Beerbhoom, on the 11th October, 1855.

Remarks by the sessions judge.—The prisoners pleaded not guilty, but on being called upon for their defence, admitted their having at the instigation of a body of Bhaugulpore Sonthals joined in the expedition to plunder *Nonihut*, a large town in the hilly district of that zillah, but denied having taken any part in the plunder of property or maltreatment of the inhabitants so freely indulged in by the Sonthal insurgents; they then left

1855. December 21. Case of UMRIT ROY BHOONYA and others.

their part of the country and were arrested at Narainpore, Mirtunjyepore, (the two villages closely adjoining each other,) some twenty miles from their homes; they also acknowledged their confessions recorded before the police darogah and deputy magistrate on the 20th and 23rd of August last, to the effect, that after the *Nonihat* business, they left their homes and went to Narainpore with the intention of appropriating whatever in the shape of plunder they could find, but were arrested on the spot with their *latties* and baskets by the witnesses Nos. 1, 2 and 3, Khemkurn Singh, Booreeram Singh and Tarachurn Kamar, before they could carry their intentions into execution.

In the magistrate's proceedings it is recorded that "this village (Narainpore), was first attacked and plundered by a body of "upwards of 5,000 Sonthals, Paharia Mals, Bhooyahs, "&c. on the 16th and 17th July, and the most horrible atroci- "ties committed by them; twenty-five of the inhabitants were "murdered; and on visiting the spot the magistrate himself "counted thirteen corpses, most of whom had had their heads "hacked off by the axes of the rebels, and had been otherwise "mangled in a shocking manner. From the date of the first "attack on this village up to that (August 18th) on which the "prisoners were captured, the Sonthals and the other castes, "who have joined them in the rebellion, had been in the habit "of returning daily to the village which was deserted by the "inhabitants and plundering all they could find."

The evidence of the witnesses for the prosecution clearly proves the arrest of the prisoners at the village Narainpore, armed with *lattees* and provided with baskets for the removal of grain or any other property they could possess themselves of, while the prisoners' confessions before both the police and foujdary court, leave no doubt as to the purpose for which they had quitted their homes, some twenty miles distant, and visited the village in question. From their admission also of their having been concerned with the Sonthal insurgents in the plunder of Nonihat, there is every reason to suspect them of having acted in concert with the Sonthals in the plunder of Narainpore from the first, but unfortunately no proof of the fact could be adduced; under these circumstances, in concurrence with the verdict of the jury pronouncing them guilty, I sentence the prisoners to three years' imprisonment and each to pay a fine of (100) one hundred rupees in lieu of labor. An irregularity on the part of the police darogah in recording the confessions of all the prisoners at the same time and together on one paper, was duly brought to the notice of the magistrate.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton). The sessions judge convicts the prisoners on their confession before the police and the magistrate, and we see no reason to interfere.

PRESENT:

B. J. COLVIN, Esq., *Judge.*

GOVERNMENT

versus

RADHANATH alias RADHA HAREE.

Hooghly.

1855.

December 21.

Case of RADHANATH *alias* RADHA HAREE.

The prisoner was transported for life on conviction of having belonged to a gang of dacoits.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Seker Roy, deputy magistrate under the commissioner for the suppression of dacoity.

Tried before Mr. C. Steer, additional sessions judge of Hooghly on the 3rd October, 1855.

Remarks by the additional sessions judge.—The prisoner is charged with having belonged to a gang of dacoits and he pleads guilty.

The committing officer remarks that the prisoner was named by many of his approvers, but only one witness was brought forward at the trial. This man, an approver on the establishment of the dacoity commissioner, deposes that he has been engaged with the prisoner at different times within recent years, on twelve to fourteen different dacoities. I did not require him to state the particulars of all these several crimes, but I selected the first and the last of the dacoities committed with the prisoner as those upon which to put the approver on his examination. The prisoner, who was arrested several months subsequent to the apprehension of the approver, gave these two dacoities among the forty-one of which he afforded a full description in his confession. In each of the two dacoities the approver's name appears among the prisoner's list of the persons engaged. But the approver omitted to name the prisoner in the dacoity which was the last of the expeditions committed in company with the prisoner. This omission, there can be little doubt, was the effect of inadvertence, for the prisoner himself allowed that he committed the dacoity, he said that the approver was with him, and the accounts of the two are so similar, that it is evident they both were eye-witnesses of what they describe.

However, the plea of guilty renders evidence almost supererogatory and on the prisoner's voluntary confession, added to the proof of guilt afforded by the evidence of the approver, I would convict him of the charge laid against him in the Calendar and sentence him to transportation for life.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) I convict the prisoner on his own confession and the evidence of the approver, of having belonged to a gang of dacoits, and sentence him to hard labor in irons in transportation for life.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS. *Judges.*

GOVERNMENT

versus

NARAIN DASS.

Midnapore.

1855.

December 21.

Case of NARAIN DASS.

The charge, and evidence of the approvers against the prisoner were, respectively, proved and corroborated by the confession of the prisoner himself. Transported for life.

CRIME CHARGED.—Being by profession a dacoit and having belonged to a gang of dacoits.

Committing Officer.—Lieut. C. H. Keighly, assistant general superintendent and joint-magistrate of Midnapore.

Tried before Mr. W. Luke, sessions judge of Midnapore, on the 14th November, 1855.

Remarks by the sessions judge.—The prisoner pleads not guilty in this court.

The witness No. 1, Madhob Dass, No. 2, Jugbundoo, No. 3, Benoo Perdhan and No. 4, Kanteeram, approvers, denounce the prisoner as belonging to a gang of dacoits and with having accompanied them on various occasions and committed gang robberies which they detail.

The prisoner, before the assistant superintendent, confessed to having been concerned in eight different dacoities, he being at the time a chuprassee in the salt department.

In this court he pleads in defence, that before the assistant superintendent he only admitted that he had been arrested, tried and acquitted on two previous occasions, and that he is not responsible for what is recorded besides this admission which was dictated and written down at the instigation of and in collusion with the approvers, he himself being at the time quite insensible to what was going on.

The approvers' testimony is corroborated by the evidence of another approver Gobind Dass given two years ago in the assistant superintendent's court at Hooghly, in which he denounced the prisoner as a professional dacoit. The confessions of witnesses Nos. 1, 2, 3 and 4, were made before the assistant superintendent at Midnapore during the present year some months before the prisoner was arrested, and without any previous reference to the assistant superintendent at Hooghly, there are consequently no grounds for suspecting the approvers of collusion to denounce an innocent party.

Suspicion of such a nature is further removed by the prisoner's voluntary confession in the lower court, which is abundantly corroborated by the documentary evidence entered in the calendar and by the records of this court to which reference has been made, especially the case of Narain Kund (in which the prisoner was tried, convicted and sentenced by this court in

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September, 1835, but acquitted by the Sudder court) giving the details of the dacoity wherein prisoner now confesses he was a participator.

I convict the prisoner on the evidence adduced and the confessions made before the assistant superintendent, of the crime of which he is accused, and recommend that he be sentenced to imprisonment for life in transportation beyond seas.

Remarks by the Nizamut Adawlut.--(Present: Messrs. H. T. Raikes and J. H. Patton.) The confessions of the prisoner afford both direct proof against him and full corroboration of the approvers' statements. We convict him of the crime charged, and sentence him to transportation for life.

PRESENT:

A. DICK, H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND BHALOO PASBAN

versus

GOORDYAL (No. 16,) KARU MUTHUN (No. 17,) DHUNNA SAHOO (No. 18,) POOTCHA KANDOO (No. 19,) ROWDI CHOWKEEDAR (No. 20,) PEERBUX (No. 21,) MUNNU (No. 22.)

Bhaugulpore 1855. December 21. Case of GOORDYAL and others.

CRIME CHARGED.—Wilful murder of Undher Pasban.

Committing Officer.—Mr. W. F. Tucker, magistrate of Monghyr.

Tried before Mr. William Bell, sessions judge of Bhaugulpore, on the 11th October, 1855.

From the improbability that the deceased was beaten as stated in the evidence,—from the delay which occurred in making a complaint at the thannah, and from the likelihood that the evidence, (in itself untrustworthy) was trumped up in the interval,—

Remarks by the sessions judge.—It would appear that the deceased was a Gorait and had accompanied a collectorate peadah to point out two men, not yet arrested, but did not find them, and the peadah went away. The prisoners all set upon deceased and beat and ill-used him until his friends came up, they then ran away and he was taken home; this all occurred on the 2nd of May. On the 7th of May, he went to the magistrate's court and complained, and his evidence was taken, in which he implicates all the prisoners, but the magistrate, not anticipating a fatal result, did not have the deposition formally attested, and ordered him to go to the hospital, where he died the following day. Dr. Collins, who examined the body after death, states that he died from external violence, resulting in rupture of the liver, and that such injury could not have been sustained by a fall into a ditch. Witnesses Nos. 1, 2, 4 and 5, all swear to all the prisoners being concerned in the assault, and witness No. 3, recognises all. They all state what they saw clearly enough,

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the prisoners were considered entitled to acquittal.

and their evidence is not shaken in cross-examination by the prisoners' Mooktears.

The prisoners, in their defence, declare that there is a quarrel with the zemindar and his amlah, and the case is got up by them, the deceased having been a drunkard and his death caused by his falling into a ditch. Goordyal (No. 16,) Karu (No. 17,) are brothers and they state that it is against them the *zid* exists. Dhunna (No. 18,) Pootcha (No. 19,) Rowdi (No. 20,) Peerbux (No. 21,) and Munnu (No. 22,) declare that the zemindar tried to induce them to give false evidence implicating the others, and when they refused, made them defendants, they bring plenty of witnesses to prove deceased a drunkard, and the fact of tampering with them to give false evidence, &c., &c., but some contradict the others and it does not appear to me they make out their case. The jury* acquit but I differ.

* Bhyro Sahoy. Neamut Ally. Sadutoollah.

I see no reason to doubt the evidence of witnesses Nos. 1, 2, 3, 4 and 5; if the deceased had gone with the peadah to point out one of their friends, it is very probable they would pay him off, as they have done, to intimidate others. The deceased may have been a drunkard, but Dr. Collins's evidence is clear as to cause of death, and the impossibility of its being the result of a fall into a ditch, as they would fain prove by the witnesses,* injured as I believe him to have been by the beating. I, of course, discredit the story of his fall from drunkenness, whence they state it to have occurred entirely, and disbelieving that, reject their evidence in toto: the quarrel with the zemindar and his amlah is very probable, but witnesses Nos. 11 and 45, contradict each other most clearly, and I do not think it possible even if the amlah were going to trump up a story against parties they would do it in the open way they are said to have done. I believe the prisoners indignant at the deceased accompanying the peadah to point out Shibdyal and Ramdyal, determined to pay him off, and inflicted the injury from which he died, but I do not see any reason to believe they intended to kill him, and I would therefore recommend a sentence of fourteen years' imprisonment to each.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick, H. T. Raikes and B. J. Colvin.)

Mr. A. Dick.—On the evidence of the surgeon, it is proved that the deceased died from external violence, that marks of violence were apparent on the abdomen and only on the abdomen, which caused rupture of the liver.

The testimony of the eye-witnesses would prove that from a dozen to sixteen or seventeen persons were all concerned in

* I had been reading other calendars and supposed some also alleged he was killed by the fall of a wall, which was not the case.

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Case of GOORDYAL and others.

beating the deceased; two or three with sticks or clubs, and the others with their fists and heels The surgeon however distinctly says, there were no marks of violence any where except on the abdomen; and this is corroborated by the fact that the darogah would not receive the complaint as apparently too trivial.

The deposition of the deceased, taken on his preferring his complaint, as well as all the circumstances, and the locality of the assault tend to indicate, that the attack was accidental and unpremeditated. It is therefore most extraordinary and scarcely credible, that so many as from twelve to seventeen persons should have been on the spot, and all should take a part in the attack on a single man. When it is in evidence, that enmity existed between the principal prisoners, and the amlah of the zemindar, and that the amlah had brought civil suits, and criminal charges against those persons, which had been adjudged false and that four out of five of the eye-witnesses are defendants of the zemindar; there is too much reason to apprehend that so many persons, near relatives of the two principals, Ramdyal and Sheodyal, and others connected with them have been deliberately accused to overwhelm and ruin the whole family. That the deceased was assaulted and beat about the abdomen there can be little doubt; but that he was beaten as testified by the witnesses is, to me, utterly incredible. I concur with the jury, and would reject the evidence for the prosecution as untrustworthy, and acquit all the prisoners.

Mr. B. J. Colvin.—I do not concur in this acquittal. The fact of process having issued is not denied: indeed it is proved by the copies of the summary suit decisions filed by the prisoners. The fact of the deceased having been beat is apparent from the mofussil answer of No. 20. The quarrels which are shown to have existed between the Rajah's tehseeldar and the prisoners afford as good ground for supposing the issue of process to have been resented, and vengeance taken upon the deceased for pointing out the alleged defaulters, as for supposing the charge to have originated in enmity. I see no reason to discredit the evidence of the witnesses, its truth is corroborated by that of the civil surgeon, who accounted for death by beating and maltreatment such as the witnesses discribe.

The prisoners varied their defence in the mofussil, and before the magistrate; and their plea that the deceased died from falling into a ditch when drunk, which he was represented constantly to be and diseased, which, if true, they would undoubtedly have said at first, is contradicted by the medical evidence, according to which the deceased's corpse was that of a healthy person, and the injuries could not have been inflicted by such an accident.

I convict the prisoners of culpable homicide, and concur in the sentence proposed.

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The sessions judge might have had the deposition of the deceased, which was taken before the magistrate, proved on the trial, by the mohurrir who recorded it.

Mr. H. T. Raikes.—I agree with Mr. Dick, that the witnesses are not trustworthy. There is an interval of five days between the date of the occurrence and the deceased's complaint to the magistrate which is not accounted for. It is true that one of his relations say, he went to the darogah, and was referred to the foujdarry, but as proof of this could have been easily procured and put on record, its non-appearance is against the fact. It is very probable the deceased was maltreated and died from such maltreatment, but it is impossible to trust to the evidence as giving a true statement of the occurrence. Had the assault been as described therein, the deceased could scarcely have escaped being killed on the spot. I cannot help suspecting that the interval alluded to was employed in getting up evidence against the parties accused.

I concur with Mr. Dick in acquitting them.

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND MUSST. JANOOKEE AND OTHERS

versus

PANCHOO DHALLY (No. 1,) GUNGADHUR PALEET (No. 2.)

24-Pergunnahs.

1855.

December 24.

Case of PANCHOO DHALLY and another.

Sentence of transportation for life passed upon one of the prisoners convicted of spearing a man in a riot.

Another prisoner acquitted for want of proof of guilt.

CRIME CHARGED.—1st count, No. 1, wilful murder; 2nd count, Nos. 1 and 2, riot attended with wilful murder.

Committing Officer.—Mr. A. Hope, joint-magistrate of Baraset.

Tried before Mr. C. Steer, additional sessions judge of 24-Pergunnahs, on the 16th August, 1855.

Remarks by the additional sessions judge.—Nackua and Chackla are contiguous villages, belonging to two rival zemindars, the first is owned by Rajnarain Roy while Prannath Chowdree is proprietor of the second. The villages are in the Soonderbuns where the scarcity of cultivators makes every man of that class a valuable chattel to the possessor.

It seems that last year Rajnarain's agents in Nackua, sent an escort of armed men, and brought away at dead of night several of Prannath's ryots, among whom was the witness Panaullah, No. 14. There is reason to think that overtures having been made to him, he became reconciled to his late landlord, and was willing to return to his estate, but where ryots are not plentiful, it is

not an easy matter for a ryot to escape from a village, except he consents to do so with the sacrifice of his worldly goods. But a ryot without cattle or plough, and with no means of supporting himself, is but a poor acquisition, and when Panaullah agreed to return to Chackla, it became of course necessary to devise means for bringing away his family and property. Accordingly Prannath's naib assembled their dependants and tenants and on the night of the 5th March, 1855, proceeded to bring away Panaullah, his family and worldly goods. Their arrival in the village in force and at that hour of night, caused an uproar, and the object of the nocturnal visit not being altogether unknown to the adherents of Rajnarain Roy, the latter were not slow to call together their men to oppose the invaders, a mutual fight was likely to have occurred, but sudden vigorous measures on the part of Prannath's men quickly decided the issue in their favour and made their opponents take to fight, cowed by the sight of two of their number mortally wounded. Secured against further resistance, Prannath's men collected together whatever property they could lay their hands on, without regard of course whether it belonged to Panaullah or not, and then made off in boats to their own village.

All these facts and the wounding of Mahsoom Mollah and Adur *alias* Attaram Bagdee, in the riot and their subsequent death, are clearly established by the evidence. The local investigation was made by Mr. deputy magistrate Smith the day after the riot occurred. From the very beginning, the facts of the case were represented in the very manner they have been above described, and the defendants were one and all implicated by different witnesses from the beginning. The story, as given by the prosecutor, is not impeached by any one, and there is no doubt whatever that the outline of it, as given above, is a truthful representation of matters as they really occurred.

The riot took place at midnight, but the moon was bright, and the parties being besides well known to each other, and the position of the witnesses being favorable, I think a good deal of faith is to be placed in the recognition. The question then is, against whom is the evidence of identity good and reliable.

The law officer convicts prisoners No. 1, Panchoo Dhally, No. 4, Kallachand Bairagee, No. 5, Gooiwah *alias* Goburdhun Sirdar, No. 6, Katchim Dhally, No. 7, Jeebun Dhally, No. 8, Polad Gazee, No. 9, Kabil Chowkeedar, No. 11, Poran Dhally, No. 15, Hatchim Sheikh, No. 18, Gogun Napit, No. 19, Ameen Sirdar, No. 20, Durbar Sirdar, No. 21, Dhonye Biswas, No. 22, Dhonye Bagadar of being accomplices in the riot attended with the murder of Mahsoom Mollah and Adar *alias* Attaram Bagdee, and there being the consistent evidence of two or more witnesses against each of the above named, I fully accord my assent to this finding.

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The law officer, however, acquits prisoner No. 2, Gungadhur Palit, and in this respect I disagree with him. It is true that there is not a redundancy of evidence against him, and I admit that the proof against him is confined almost entirely to the testimony of the witness Panaullah. But his statement I regard as very trustworthy, and his single testimony as to identity is superior to all the other witnesses put together. He was a very competent witness, and there is no suspicion that any undue influence has been at work to get him to implicate the defendant Gungadhur; Panaullah's statement is that when he was taken to the *khal* and put on board a boat, he saw the prisoner Gungadhur two reaches below the village. If this is a true account, there can be no doubt that Gungadhur came with the force which riotously entered the village of Nackua at midnight and committed murder in prosecution of their preconcerted design of removing Panaullah with his property. The force went armed, prepared for violence. They went in considerable numbers to commit an act which was likely to provoke a breach of the peace. That Gungadhur did go, is corroborated by the defence before the deputy magistrate of several of the prisoners, wherein some say that the naib of Chackla, who is no other than Gungadhur, sent to summon them to the nocturnal expedition, while others, still more specific, affirmed that Gungadhur gave his orders to them personally to join the expedition. If Gungadhur had nothing to do with the assembling of the force, but was, as he affirms at a distant place, what reason can be assigned for so many of his own party implicating him? Gungadhur's tardy obedience to the magistrate's warrant of apprehension is also any thing but a favorable sign of connivance, and it raises a presumption that the time, during which he failed to appear, was spent in manufacturing a story and procuring evidence in support of it with a view to secure his acquittal.

I would therefore, upon Panaullah's testimony corroborated by the circumstantial facts above noticed, convict Gungadhur of being an accomplice in a riot attended with murder. He assembled the rioters and went with them on their unlawful undertaking. He did not contemplate murder, but he was prepared for violence, and he is responsible for the violence which occurred. I recommend therefore that he be sentenced to seven years' imprisonment with labor in irons.

I think too that Panchoo is deserving of a sentence higher than I have the power to award. If there is any truth in the witnesses for the prosecution, it was unquestionably the spear of Panchoo which took mortal effect upon Mahsoom. He is represented to have been so close to Mahsoom that the witnesses are not agreed whether he threw the spear or thrust it. It is certain then, that his was not a chance-throw into a crowd, but a throw intended for the particular party upon whom it actually

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took effect. The act then of which Panchoo is guilty, is one of wilful murder, and he deserves, I think, a sentence of fourteen years' imprisonment at least.

The case is therefore submitted for the orders of the Court in regard to Gungadhur and Panchoo.

Prisoners Nos. 4, 5, 6, 7, 8, 9, 11, 15, 18, 19, 20, 21, and 22, having been convicted by the law officer and myself of having been accomplices in a riot attended with the wilful murder of Mahsoom and Adar, they are sentenced to be imprisoned each for five years with labor in irons. The sentence to remain in abeyance till the Court's orders in regard to the referred prisoners are received.

Remarks by the Nizamut Adawlut.—(Present: Sir R. Barlow, Bart., and Mr. B. J. Colvin.) This case has been referred as regards two of the prisoners Panchoo Dhallee and Gungadhur Paulit, the remainder having been punished by the sessions judge, who has however suspended the sentence passed upon them awaiting the judgment of the Court on his letter of reference.

Prisoner No. 1, Panchoo Dhallee, in his answer before the deputy magistrate admitted that he was present on the occasion of the riot, though he denied having wounded any one. The evidence throughout distinctly proves that he not only was present, but that the deceased Mahsoom was killed by him with a spear, which entered his left breast. In the sessions court the prisoner pleaded not guilty and endeavoured to establish an *alibi*, he named four persons in his defence, of these, three were prisoners in the case and the fourth witness denied all knowledge of the fact which he was brought forward to prove. The prisoner is clearly guilty of the crime charged, the outrage on the villagers and the plunder of their property was most unjustifiable, and the circumstances attending the riot and assault are of so grave a nature that in our judgment nothing less than a sentence of imprisonment for life with irons and labor in transportation will satisfy the demands of justice. We accordingly sentence the prisoner and direct that a warrant to that effect be issued.

The evidence for the prosecution against the prisoner No. 2, Gungadhur Paulit is by no means satisfactory. The sessions judge and the law officer of the zillah court having differed as regards the prisoner, his case has been submitted for the final order of the Court. The sessions judge in his letter of reference paragraph 7, states "there is not a redundancy of evidence "against him, and admits that the proof against him is confined "almost entirely to the testimony of the witness Panaullah."

The joint-magistrate in his rubacaree of the 12th May last, recorded that the deputy magistrate, Mr. Smith, had done wrong in including the said Panaullah amongst the defendants and on the 14th May, took Panaullah's deposition as a witness, having

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admitted him on the grounds adverted to in his proceedings of the 12th May. In his *deposition* he specifically named prisoner No. 2, Gungadhur Paulit as the Naib, who gave the order for the attack and plunder, while on board his boat, not on shore, he recognised the prisoner by the light of the moon. On the 20th March, in his *answer* before the deputy magistrate, he as positively stated that he could not say whether the Naib and others charged were present. On the 15th August in the sessions court, he deposed that he was called by prisoner No. 4, who said the Naib was come to carry him, Panaullah, away. Prisoner and his family were pushed on board a boat which he helped to row, after passing two banks or reaches of the river, he saw a boat, and was told it was the Naib's, who asked whether he, prisoner, had come, he was ordered by the Naib to row on, the Naib remained on board where the prisoner had first seen him. The two reaches are seven or eight *russees* long and prisoner's boat was distant about five or six cottahs from that of the Naib.

It is upon the testimony of this man, Panaullah, corroborated as he holds by the circumstantial facts noticed, that the sessions judge relies for the conviction of the prisoner Gungadhur of being an accomplice in a riot attended with murder.

Several witnesses have however been examined very closely as to the fact of the Naib, prisoner No. 2, having been present and ordering the assault and plunder of the ryots' houses, which ended in the death of Mahsoom and of Attaram Bagdee, who was also killed at the same time by one Salleem, who has absconded.

Before giving a short abstract of the evidence against this prisoner, it is necessary to premise that all the witnesses have said, that three or four respectable well-dressed persons sometimes called Naibs and Gomashtahs were present and gave orders for the assault, on being pressed by their party for instructions.

Witnesses Nos. 1 and 2, when first examined by the deputy magistrate, said as respects the identity of this prisoner that the respectable people might have been the Naibs, presumed that they were the Naibs. Witness No. 2, at the close of his evidence said he recognised Hurasutollah Jemadar and no one else, of those who gave the orders in the sessions court, he swore that he did not know the Naibs

Witness No. 3, examined on the same day as Nos. 1 and 2 said that on the rioters asking for orders, two or three persons answered "begin," he recognised the Naib, Prisoner No. 2. When he gave orders he was standing at the distance of one *russee* from the spot, where the riot was going on.

In the sessions court this witness said on cross-examination, he recognised the prisoner No. 2, the Naib, by his voice, he did

not know him before, he then said he had known the prisoner for about two years and had two or three times spoken to him.

Witness No. 12, before the deputy magistrate and also in the sessions court deposed to the prisoner No. 2, being the Naib who ordered the attack, he was one *russee* distant and saw prisoner come on shore and give the orders. In the sessions court he explained that a crowd of persons was standing round the Naib and amongst them two or three well-dressed people.

Witness No. 5, is dead and No. 6 has been committed for perjury.

Witness No. 4, in the first court deposed that prisoner No. 1, asked the Naib for orders, that is, he asked the person standing behind the bund with clean clothes on for orders, on receiving which the attack commenced, he knew the parties well before.

In the sessions he swore that they the assailants, addressed the Naib, but witness is unable to state what orders were given.

Witness No. 7, before the deputy magistrate swore that No. 1, prisoner commenced the riot by order of the Naib No. 2, at the close of his statement he said he did not know the Naib, that the absent Salleem said to the Naib, "Give the orders," from this he understood that the Naib had come.

In the sessions court he deposed that some one gave the order.

Other witnesses gave similar conflicting evidence as to the identity of the prisoner and his having given the order for the attack.

Some could not recognise the well-dressed men, others heard that they had given orders and one or two named other persons as the Naibs who were present.

All that has been adduced against this prisoner, in our opinion, is so conflicting and so little worthy of credit that it would be unsafe to convict on such evidence. The prisoner has pleaded *alibi* and by the depositions of several witnesses has shewn, that he was at Jessore and married at the house of Pranharee Ghose, to his daughter, on the very night of the occurrence. Holding that the prosecution has failed, we do not think it necessary to enter more minutely upon this point of the case. We accordingly acquit prisoner No. 2, Gungadhur Paulit and direct his release.

The remaining prisoners are sworn to as having been present taking part in the plunder and the riot, they have urged *alibi* at their own houses or in other villages, but have altogether failed to prove it. They are neighbours of the prosecutor and the witnesses brought forward in support of the prosecution. We see no reason to interfere with the sentence passed upon them by the sessions judge which we confirm on their appeal.

PRESENT:

A. DICK AND B. J. COLVIN, Esqs., *Judges.*

GOVERNMENT

versus

PANAOOLLAH SHEIKH.

Hooghly.

1855.

December 28.

Case of PANAOOLLAH SHEIKH.

Prisoner acquitted, notwithstanding he confessed before the dacoity commissioner; he having repudiated at the trial in sessions his confession, and there being no sufficient corroborating circumstances.

CRIME CHARGED.—Having belonged to a gang of dacoits.

Committing Officer.—Baboo Chunder Seker Roy, deputy magistrate under the dacoity commissioner at Hooghly.

Tried before Mr. C. Steer, additional sessions judge of Hooghly, on the 15th September, 1855

Remarks by the additional sessions judge.—There is no evidence against the prisoner, but what his own confession affords.

Just previous to his being delivered over to the dacoity commissioner, he had stood his trial for a dacoity committed in Doormash. The sessions judge of Burdwan acquitted him upon that charge, but the magistrate of the district being fully impressed with the conviction that the prisoner was a dacoit, sent him to the dacoity commissioner. It so happened that one Ramnarain, whose case is now under reference to the superior Court, had only a few days previous denounced the prisoner in a dacoity which occurred several years ago. At first the prisoner denied but he soon became more yielding, and made a confession to the commissioner of five dacoitics within a very few days after his arrest.

The confession being the only evidence against him, it is necessary to scrutinize it. I shall not suppose it possible that a confession could have been prepared for the prisoner in the dacoity commissioner's office, which is the defence the prisoner makes. The only question which it seems to me important to take into consideration is, whether the confession bears the marks of being a true statement, or whether it is a downright fiction.

In one of the five dacoities confessed to by the prisoner, we have a confession of a second party. How do the statements of the two appear on comparison? If one spoke the truth in describing the dacoity, the account of the second confessary made up out of his own imagination, could not possibly tally. But in the case of the dacoity referred to, which is the Haldeeparah dacoity, the prisoner's narrative is the same as that of Ramnarain, as will be seen from the perusal of their respective statements of which a verbatim translation is annexed. Of seventeen and fifteen names given by each respectively, they agree as to six. Now, unless it can be shown that the prisoner had prior communication with Ramnarain, how is such harmony

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in the statements of the two persons to be accounted for? As explained over and over again, it is a rule vigilantly observed with the dacoity commissioner's establishment, not to allow parties accused of the same crimes to mix or to hold any communication together. Such a supposition then being quite out of the question, and as it is not possible that a tale invented by the imagination could, in all material particulars, tally with the account of an eye-witness, there is no other inference to be drawn than that the statement of the prisoner is not a fiction. Indeed the above argument not only proves that the statement of the prisoner is true, but the agreement with it by Ramnarain carries the proof of truth into Ramnarain's statement also.

It is also worthy of observation that the Haldeeparah dacoity was committed by men living far apart from each other, and far apart from the scene of their exploit. This circumstance makes the close correspondence between the statements of the prisoner and Ramnarain the more remarkable, and it gives strength to the presumption that the confessions of the two are the statements of men who actually saw what they relate.

It will be seen also from the records of the cases submitted by the dacoity commissioner, that the prisoner has been arrested several times charged with serious crimes, and it is among men of the kind, that we may naturally expect to find professional dacoits.

Not doubting that his confession is a true testimony of his own guilt, I would convict the prisoner of having belonged to a gang of dacoits, and sentence him to transportation for life.

An extract from the confession of Ramnarain delivered before the dacoity commissioner.

Q.—Relate the particulars of the dacoities you have confessed to and those of any others you recollect?

A.—About 1250, I committed a dacoity with the gang of Ishan Banerjea of Bandmora of thannah Kutwa in the house of Nokool Dutt, a seller of spices, of Haldeepara, thannah Poorbusthullee, zillah Burdwan. The particulars of it are these: Okeel Samunt who belongs to Ishan's gang used to carry things for sale on bullocks to Haldeepara. He gave us the clue to Nokool's house, and he being of Ishan's gang gave information to Hara Gwallah of Koara, who gave Ishan notice and he also had me informed. At close of the day on which the dacoity happened, I dressed myself up as if I were going to a marriage, and when we had all collected under a *But* tree in the Summuspoor village which is close to Haldeepara, a little before night, we proceeded together towards the village of Haldeepara; we went up at once to the Bunnea's house, several men kept guard at the door, several entered the enclosure, and finding all the doors upstairs and belowstairs open, they entered the rooms, and, breaking open several boxes and *pittarahs* and seizing

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the women and young children and taking their jewels, completed the plunder within two *dunds*. During the plunder some of the villagers ran up, some of our men fired arrows and they retreated to a distance, Okeel Samunt having run off with near 1000 Rs. worth of property, there was no search; whatever each had he carried off, I got from Hara half a gold *kungkun* which I sold for 32 Rs. to Neeloo goldsmith of my village. The plunder obtained from the house consisting of several articles of jewelry, silver plates and vessels and cash, amounted to near 2000 Rs. The case was enquired into and Bhuggeerut Goopt of our side was apprehended, he was sent to Burdwan, and was released by the magistrate. No one else was caught.

Q.—How was Bhuggeerut traced?

A.—A barber living in the Bunnea's house knew Bhuggeerut before, he somehow recognised him and accused him.

Q.—At what hour did you commit the dacoity, and what weapons had you, and did you light *mussals* or not?

A.—It was not more than two *dunds* of night when we began, when we quitted, it was not more than four *dunds*. The household and the villagers had not dined then, we found every door open, we had with us two swords and shields, four or five had *latties*, there were some arrows also with us, there was cloth wound round a bow, we had no *mussals* with us, we made them out of cloth found in the house.

Q.—Who were in this dacoity?

A.—Ishan Banerjea and of his Kutwa men Nazir Nikaree, Koosna Nikaree, Punnaoollah Nikaree; and of Panoohat, Pursa Dome: of Korae Koetal, Junnoo Surnokar, of Bandomoree three Mussulmans, whose names I don't know, of Koara, Hara Ghose who was also Hara Noro, Mahdub Naree Gwallah, Ramchunder Mookerjea of Patonea, Okeel Samunt of Dona, Ramsamunt Krishto Dome; and of my side Radhamohun Samunt, myself and Bhuggeerut Goopt, who is Okeel Samunt's sister's husband. It was he who gave us the information of Patonea Moola Bagdee of Ishan's gang, there were about twenty-five of us.

Q.—How far from Bandmora are Kutwa, Koara, Patoon, Shopoon and Moontissur?

A.—Kutwa is one or one and half *coss*, Koara and Patoon are four *coss*, Montissur is five *coss*.

Q.—How could so many men living so far off have joined Ishan's gang in the same affair?

A.—Hara is a friend of Ishan, he got the gang together; Okeel's sister has married Ramsamunt, who lives in Doona close to Bandmora. Ram Samunt belongs to Ishan's gang, Ram Samunt brought the men of Patoonea, Bhuggeerut of Shapoor has married another daughter of Okeel, there was no difficulty

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in getting him to attend; Hara gave me notice; Hara lives with in two *coss* from my house.

Q.—How far is the village where you committed dacoity from Bandmora and Montissur, and how far is Summuspoor from the *But* tree and what kind of a *baree* was it?

A.—From the dacoity village, Bandmora is six *coss*, from Montissur two and half *coss*, two *coss* from Patoon, Summuspoor is only separated from the *But* tree by the Kurrea *nuddee*, and they are about 10 *rusees* apart.

Q.—How much water is there in that *nuddee* in the dry weather and how did you get over the *nuddee?*

A.—It is fordable, we forded it.

Q.—There seems from what you say, to have been a faree in Huldeepara, did the fareedar show himself during the dacoity?

A.—No, I did not see him. The faree is on the other side of the *nuddee* in Summuspoor and it is an outpost of Montissur thannah.

Extract from the confession of Panaoollah taken before the dacoity commissioner.

Q.—State the particulars of the dacoities you have confessed to and state when they occurred?

A.—Nine or ten years ago I committed a dacoity with Ishan Bannea's gang in Huldeepara, within either the Montissur or Poorbusthullee Thannah, in the house of a Bannea. Ishan lives in Bamun Mora, Thannah Kutwa; the particulars are these, Ramchunder Mookerjea of Koana, Thannah Montissur, discovered the house and he gave notice to Ram Joy Tamoo of our village, the latter informed me, on the day of the dacoity, having eat, &c. we started and all of us assembled under a cotton tree on the Nuddea bank north of Haldeepara; a Hindoo of Haldeepara, whose name I don't know, brought us sticks to the cotton tree, we made up our *mussals* there and performed *poojah*, and at four or six *dunds* at night just at the hour of dinner, we attacked the house. The *baree* door was open. They were playing dice in the *chundemunduh;* entering the *baree* we seized the players, kept them there, placing two or three of the gang over them. Lighting the *mussals* we entered the apartment. I and another remained with our prisoners, the dice-players, the others went into the apartments, the doors were all open, our gang at once ascended upstairs, broke boxes, &c., and plundered their contents, no one was beaten. During the plunder the villagers did shew themselves, but they did not approach near. Having plundered the house all went out, villagers followed us for a short distance, then they went back, there was no search, every one took what he had, I got a pair of silver *bankmulls* and a ditto *tabeez*. I sold them the next day for 17 rupees to Okhoy

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Sonar of Kutwa. I can't say, if there was any enquiry. The place was seven coss from my house, we were none of us caught.

Q.—Who went?

A.—Ramjoy Takoor of Kutwa, Russoo Rajbunshee, Peeru Nickaree, Bany Talee, Motubbur Shaikh, Sreeram Rajbungshee brother of Russoa, dead, Kooseena Sheikh, Nazir Sheikh, Suntosh Mussalman, Ishur Bannerjea, Bamunmooro Ramchunder of Koara, Roma Naru Gwallah, Wooma Ghose, Haradhun Ghose, Jodoo Kyburt, and Mudden Kyburt of Patoon, and Poran Roy Agooree of what place I don't know.

Q.—What kind of a house was it?

A.—A two-storied pucka house, outside was a *chundeemundub* of brick and inside was the two-storied house.

Remarks by the Nizamut Adawlut.— (Present: Messrs. A. Dick and B. J. Colvin).

Mr. A. Dick.—The prisoner was apprehended on a charge of dacoity at Doormash, on account of having a wound on one of his shoulders, and with several others, was committed to the sessions. He, on the ground of two confessions, one before the mohurrir of police, and the other before the deputy magistrate. Both of them he denied at the trial in sessions: and there being evidence that the peon, who apprehended and accused him, had before brought a false charge against him, and nothing to corroborate the confessions, they were disbelieved and he was acquitted on the 17th May, 1855. The magistrate, however, sent him to the dacoity commissioner, on suspicion of his being a dacoit. He arrived there on the 21st May, 1855, and the confession, on which he is now under trial, was made on the 1st June, 1855, and a short preliminary one on the 30th May. The only corroborating circumstance is the mention of him by Ramnarain in his confession of the 15th May; Ramnarain has died during trial, having repudiated his confession Prisoner denies his; it is worthy of notice that the prisoner when making this confession, confesses likewise to being in the dacoity, for which he was charged and acquitted only a few days previous; and that in the two confessions he was alleged to have made in that case, he distinctly declared he did not know who the dacoits were, about twenty in number, who joined him and a comrade whom he named. In this confession before the deputy magistrate he names, with their residences, nine or ten of the persons engaged in that dacoity.

There is no knowing what occurred during the interval between 21st May and the 1st of June, that the prisoner was in custody of the deputy magistrate of the dacoity commissioner's court, though a press of business may have prevented the confession being taken sooner.

Deeming the evidence against the prisoner unsatisfactory, I would acquit and order his release.

Mr B. J Colvin.--I concur in this acquittal, there being no proof on the record independent of the prisoner's confession. Although the fact of his having made that confession voluntarily is established, yet sufficient evidence to the truth of the facts detailed in it is wanting.

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PRESENT:

H. T. RAIKES AND B. J. COLVIN, Esqs., *Judges.*

GOVERNMENT

versus

UFZUL KHAN, MOOKTEAR.

Patna.

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Case of UFZUL KHAN MOOKTEAR.

The prisoner was convicted of perjury.

CRIME CHARGED.--Perjury

Committing Officer – Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D Wilkins, officiating sessions judge of Patna, on the 30th October, 1855.

Remarks by the officiating sessions judge.—On the 22nd August last, the prisoner was tried by me and convicted of forgery, the case being referred to the sudder Court for mitigated punishment. On this occasion, although citing evidence to the contrary, he confessed his guilt. On this, I ordered his witnesses to be indicted for perjury, and amongst others, made the prisoner a witness against them.

At *this* trial, on the 4th instant, the prisoner gave evidence in contradiction to what had been proved in the first case, and differing from his own previous defence, and to this *he* was ordered to be committed for perjury, and has now been tried for the same.

Again, on this occasion, he confesses his guilt; and I beg to recommend that on account of his advanced age and feebleness, he be sentenced to three months' imprisonment only, without labor. I am anxious to show the people about here, where perjury is so rampant, that they can never escape with impunity when wilfully perjuring themselves. The prisoner says he was confused when he gave his evidence; but this is an excuse not to be attended to, and he has declined being examined by the medical officer as to the state of his mental faculties. To my mind, he has been perfectly composed and sane on all occasions; and his evidence given on the 4th instant, in the trial noted in the margin,* was deliberate and wilful and on a point most material to the issue of the case.

The prisoner* acted upon a *mookhtearnamah* on behalf (amongst others) of one Dilawar

* Government prosecutor *versus* Nundoo, No. 3, Junglee, No. 4, and Mirza Mukhoo, No. 5. Charge "perjury."

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Ali Khan, whose name was added to it *after it had been executed and filed in court.* He at first denied on oath and now confesses this; and the three witnesses Benimadhub Mookerjea Mohafiz No. 1, Goor Sahai Mohurrir No. 2, and Syud Furzund Ali No. 3, (who was prisoner's fellow *mookhtear* in the suit) leave the matter beyond a doubt.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin) As the interpolation of Dilawar Ali's name has been shewn to have been made subsequent to the filing of the *mookhtearnamah* alluded to, the statement of the prisoner on oath to the contrary was false, and therefore his conviction is legal. The three months' imprisonment will commence from the date of his conviction by the sessions court in this case.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND JUDISTE GOORIA

versus

RAMCOOMAR MUNDUL (No. 1,) SUMIRUDDEEN SHEIKH (No. 2,) OBHOYACHURN GHOSE (No 3, APPELLANT,) GOPAULCHUNDER SHAHA (No. 5,) ADU SHEIKH (No. 6.)

Jessore.

1855.

December 28.

Case of OBHOYACHURN GHOSE and others.

Sentence and conviction upheld, the plea of the appealing prisoner, that the police had secreted the property with a view to criminate him, being disbelieved.

CRIME CHARGED.—1st count, Nos. 1, 2, 3, and 5, burglary in the house of the prosecutor, "Judiste Gooria," with theft of property and cash valued at Rs. 1,121-14-3, on the night of the 9th of June, 1855, corresponding with the 27th of Jeyt, 1261, B. S.; 2nd count, Nos. 1, 2, 3 and 6, having in their possession or receiving knowingly portions of the stolen property.

CRIME ESTABLISHED.—Nos. 2 and 5, burglary and stealing property to the value of more than 300 Rs.; Nos. 1 and 3, detaining stolen property, knowing it to have been acquired by burglary, and No. 6, knowingly receiving stolen goods.

Committing Officer.—Mr. E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Malet, officiating sessions judge of Jessore, on the 23rd August, 1855.

Remarks by the officiating sessions judge.—The plaintiff states that on getting up from his bed during the night of the 27th Joist, corresponding with 9th June, to make water, he discovered that his house had been entered by two holes cut through the raised earthen foundation of his house, he went in, lit a *chiragh* and looked about; to his dismay he found his

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chest broken open and cash and property to the amount of Rs. 1,121-14½, taken away, he accounts for his not having been awakened by the thieves by the supposition that he was enchanted. He called his neighbours (who fully bear out these facts) and gave intelligence to the police which was delayed one day by a storm; the usual enquiries were made; the first person apprehended on suspicion was No. 1, (he having been lately turned out of service by the plaintiff,) who made a confession implicating Nos. 2 and 3, and produced two pieces of cloth which he said he found on the road; Nos. 2 and 3, were apprehended who implicated all the others, with the exception of No. 6, who was caught in a very singular manner. A man, by name Lal Mahomed, not apprehended, was overheard abusing his wife about some of the property. This was mentioned to the darogah, who, on making enquiry, discovered that some of the property was in the possession of No. 6, he was immediately taken prisoner; there is besides this evidence, that of three men who declare they heard and saw the prisoners consulting together before the robbery, which by the way, I may say, I believe to be false.

The proofs against No. 1, are, that he confessed in the mofussil and before the magistrate, he was named in the depositions of his companions and some of the property was found in his possession. Before me, he could make no defence, but a denial and an insinuation that he was rendered stupid by smoking before he went to the magistrate, his witnesses can say but little for him.

No. 2. There are the same proofs against this man as the other, except that in his deposition he confesses to having been engaged in the actual burglary. Before me he of course denied, saying that he was forced to confess at the thannah and persuaded to do so before the magistrate.

No. 3. The same proof as against the others. This man appears to have been the most trusted of the gang, as the whole of the silver ornaments to the value of about 395 Rupees were in his keeping, they were discovered buried in a common earthen pot in a field at some distance from his house. Before me, he denied, stating that the pot was buried by the police, and that his confessions were extorted, there were some slight marks as of beating with a switch on the man's back, but his witnesses could say nothing for him.

No. 5. The same proofs as against the above Nos. 2 and 3, except that no property could be found. This man is said to be the "*oostad*" or teacher of the rest. Before me he denied and said that something like water was given him to drink before he confessed to the magistrate, which put him out of his proper senses, his witnesses give him a fair character, but nothing to clear him.

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No. 6. The proof against this man differs from that against the others, a conversation was heard about the property between one Lal Mahomed and his wife, on following it up, it appeared that three golden armlets had been given to him to keep, he was apprehended and the property found to the value of more than 60 Rs.; he confessed in the mofussil and before the magistrate. Before me, he denied, saying that he was taught by the darogah to confess, in the foujdaree his witnesses were his own near relations, who spoke well of him.

The case was tried by me with the assistance of a jury; they found Nos. 1, 2, 3, 5, and 6, guilty; in this I concur, and considering Nos. 2 and 5 guilty of burglary and stealing property to the value of more than 300 Rs., have sentenced them each to seven years with labor in irons. Nos. 1 and 3, I believe to have been also guilty of the same; but considering it only legally proved that they are guilty of detaining stolen property, knowing it to have been acquired by burglary, I also sentence them to seven years with labor in irons. No. 6, I consider to have been simply guilty of knowingly receiving stolen goods, I sentence him to five years with labor in irons.

The conduct of the police calls for some remark. The darogah is said by some of the witnesses to have apprehended No. 4,* and kept him three days at the thannah before sending him in, but this does not appear from the official papers. I should wish to bring this to the magistrate's notice, he can be guided by the man's character as to whether it is worthy of enquiry or not. Gopaul Chowkeedar appears to have behaved very well, it was owing to him chiefly that any of the party were apprehended and especially No. 6, I therefore direct a reward of 10 Rs. to be given to him.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) So considerable an amount of property, which is said to have been pointed out by this man, could hardly have been concealed by the police for the sole purpose of implicating the prisoner as stated by him. We see no reason to differ from the sessions judge's estimate of the evidence on the record, which fairly proves the guilt of the prisoner, and we therefore reject his appeal.

* Acquitted by the lower court.

PRESENT:

H. T. RAIKES AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT

versus

IDOO SHEIKH.

Hooghly.

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Case of IDOO SHEIKH.

The appeal of the prisoner who had been sentenced for forging a certificate, with a view to obtaining a situation as cook, was rejected.

CRIME CHARGED.—1st count, forgery and fabrication of a certificate in the English language, purporting to be a certificate of character from one Mrs. C. Steer; 2nd count, forgery of the name of Mrs. C. Steer on a certificate in the English language purporting to be a certificate of character from that lady; 3rd count, uttering the above forged and fabricated certificate well knowing the same to have been forged and fabricated, by fraudulently presenting it by the hand of Emambux to Mrs. R. M. Skinner, on or about the 16th July, 1855, with intent, by means of the said forged certificate to obtain a cook's employment from the said Mrs. R. M. Skinner; 4th count, fraudulently attempting to obtain employment of a cook by presenting a fabricated certificate of character by the hand of Emambux to Mrs. R. M. Skinner.

CRIME ESTABLISHED.—Uttering a forged and fabricated certificate, knowing the same to have been forged and fabricated.

Committing Officer.—Mr. A. Elliot, magistrate of Nuddea.

Tried before Mr. G. G. Mackintosh, sessions judge of Hooghly, on the 25th September, 1855.

Remarks by the sessions judge.—The prisoner admitted having uttered the certificate, but denied that it was a forgery.

The prisoner offered himself as a cook to Mrs. Skinner of Kishnagur, stating that he had served in that capacity in the families of Mr. Steer and other gentlemen; he produced a certificate signed C. Steer, which he said, had been written and presented to him by the late Mrs. Steer.

Witness No. 1, Emambux Khansamah.
" " 2, Haydun Chaprasser.

Mr. Steer deposed upon oath, that the prisoner had never been his servant, and that the certificate was neither written nor signed by his late wife or himself, and that Mrs. Steer had died some time prior to the 15th February, 1852, the date of the said certificate; Mr. Steer further stated that he kept no mate cook.

The prisoner's defence was, that he had been in Mr. Steer's service as mate-cook for a period of nearly seven years, during which time he had accompanied that gentleman to various districts, and he declared that the certificate had been given at

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Hooghly and not at Jessore, as he had previously stated before the magistrate. He examined three witnesses in support of his statement, two of these stated that the prisoner was not a servant of Mr. Steer's, but that they had seen him with Mr. Steer's cook Kulloo, who is his brother-in-law, and the third had heard from the prisoner and Kulloo that he was a servant of Mr. Steer.

No. 4, Nazeemoodeen Darogah.
" 5, Shumsheer Khan Jamadar.
" 7, Nojoo Sheikh.

The prisoner having admitted, that he uttered the certificate, the question for disposal is simply, whether the certificate is a forgery. This is proved by Mr. Steer's evidence and by the very appearance of the document, which is badly expressed and worse spelt, and is not in the hand-writting of a lady. The signature is now stated to be that of the late Mrs. Steer, probably, in order to render detection more difficult, but it was evidently intended by the writer to represent that of Mr. Steer, of which it is a clumsy imitation.

The *futwa* of the law officer declares the prisoner Idoo Sheikh, guilty of causing the forgery of the certificate and of knowingly uttering a forged certificate in order to procure service, and declares him liable to "*tazeer*."

The prisoner is not charged with having caused the forgery, the *futwa* therefore amounts simply to a conviction upon the 3rd count of the charge, in which I fully concur, and with reference to the great prevalence of cases of fraud of this nature, and to the evident premeditation of the prisoner's conduct arising, as I have no doubt, from his intimate knowledge of Mr. Steer's movements, derived from his relative who is still in that gentleman's service, I consider it necessary to award a severe punishment, I therefore sentence Idoo Sheikh to imprisonment for three years with hard labor commutable to a fine of 50 rupees.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton). The prisoner has advanced nothing in his appeal, and we see no reason to intertere with his conviction.

PRESENT:

A. DICK AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND DHAM MOHAPATUR

versus

BALLEAH BHOEE.

Cuttack.

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Case of BALLEAH BHOEE.

Attempt to murder satisfactorily proved. For such offence the punishment of transportation for life only legal.

CRIME CHARGED.—1st count, attempt to murder Anuntoh, a minor son of Dham Mohapatur, prosecutor, by strangling and striking him on the back of the neck with his fist; 2nd count, theft of ornaments valued at Rupees 18-12, from the person of the boy while in a state of insensibility.

Committing Officer.- Mr C. Jenkins, joint-magistrate of the southern division of Cuttack.

Tried before Mr. M. S. Gilmore, sessions judge of Cuttack, on the 12th of November, 1855.

Remarks by the sessions judge.—The following are the particulars of this case as gathered from the confessions of the prisoner, Balleah Bhoee, recorded before the police and the joint-magistrate and the evidence adduced on the part of the prosecution.

At about 2 P. M. on Monday, the 10th September, the prisoner who is employed by the prosecutor as a laborer, was engaged fishing, at a tank or pond near to the prosecutor's house with his son Anuntoh, and finding that the fish would not take the *bait* used by them, the prisoner took the said Anuntoh to some jungle adjoining a spot known by the name of the "Nundpur gohree" to get some *birnee* or bees, for *bait*, where, as the prisoner alleges, Anuntoh pelted him with some mud, and he got angry and struck him a blow with his fist on the nape of the neck, when he fell down suddenly as if dead, and he then took off the ornaments he had on his person, and supposing him to be dead threw his body into the jungle, and after taking the ornaments home to his house and concealing them in his *chhappar* and other places, he went and joined the prosecutor at his field where he was planting *dhan*. And on the prosecutor's returning home in the evening, and missing his son, he, after searching for him for a considerable time, was directed to the jungle, where his son was found, by some children, who said that while fishing in its vicinity, they had heard groans proceeding thence, and the prosecutor after having with much difficulty restored his son to his senses and learned from him that the prisoner had inveigled him to the place, where he was found, and there assaulted and rendered him insensible by putting a stick across his neck and holding him down by his foot, caused his apprehension, and he after a short interval confessed having taken the ornaments, and produced them all, with the exception of one *phansea* or ear-

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ornament, which, he stated, must have dropped at the place, where he stripped Anuntoh, from their several hiding-places.

Dham Mohapatur, the prosecutor, and father of Anuntoh, and Gungadhur Mungraj, witness No. 5, depose to finding Anuntoh in the jungle in a state of insensibilty and hearing from him, after he had with much trouble brought him to his senses, that the prisoner had taken him to the jungle, thrown him down and rendered him insensible by holding him down by placing his foot across his throat, &c.

Anund Settee, witness No. 12, deposes to having seen the prisoner and Anuntoh going in company together towards the spot where Anuntoh was found in a state of insensibility.

Witnesses, Nos. 2, 4, 5, 6 and 7, depose to the different confessions of the prisoner having been voluntarily made.

Somnath Mohapatur and Narain Pudhan, witnesses Nos. 2 and 3, depose to the production of the ornaments by the prisoner. And Neesnt Mohapatur, witness No. 9, deposes to their identity.

The prisoner, on being called on to plead guilty or not guilty to the charge, stated that he struck Anuntoh two blows with his fist, because he pelted him with mud, and on his becoming insensible he took his ornaments and threw him into the jungle. But he denies that he intended to kill him. He cited no witness in defence.

The *futwa* of the law officer convicts the prisoner of attempting to kill Anuntoh and stealing his ornaments, and declares him liable to punishment by *acoobut* and in this verdict I fully agree. The child, Anuntoh, though stated by the prosecutor his father, to be nine years of age, is a very little boy, and does not appear to be more than seven years old, and that the prisoner should have struck him such severe blows as to render him insensible merely for throwing a little mud at him, as remarked by the law officer, is altogether incredible. Indeed the whole of the circumstances of the case, the prisoner's stripping the ornaments from the person of the child, and then throwing him into a thorny jungle, concealed from the public view, fully indicate that he intended to kill him. Under these circumstances, as the assault and theft, as well as the intent to kill, are clearly established, and the prisoner was not only under the impression that he had killed the child, but it was under most providential circumstances its life was preserved, I think a capital sentence might with justice be passed on the prisoner; however, as it is not customary unless the murder is completed to pass such a sentence, I recommend that the prisoner, Balleah Bhoee, be sentenced to imprisonment for life in transportation beyond sea.

Remarks by the Nizamut Adawlut.—(Present: Messrs. A. Dick and B. J. Colvin). We convict the prisoner of theft of ornaments with attempt at murder. For such an offence, a sentence

of death cannot be passed. We have only power by Clause 4, Section 8, Regulation XVII. 1817, to sentence to imprisonment with hard labor and irons in transportation beyond sea for life. We therefore sentence the prisoner accordingly, the attempt at wilful murder being most satisfactorily established.

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Case of BALLEAH BHOSE.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

BULUN BEWAH

versus

AKBUR SHEIKH (No. 1.) AND HARAN SHEIKH (No. 2.)

Rajshahye.

1855.

December 28

Case of AKBUR SHEIKH and others.

Prisoner, No. 1, convicted on his own confession of rape, and imprisoned for four years with labor and irons.

Prisoner, No. 2, sentenced on the grounds of his own admissions, to two years' imprisonment with labor and irons for aiding and abetting in the above-mentioned crime.

CRIME CHARGED.—No. 1, with rape on the person of Bulun Bewah, the prosecutrix; No. 2, with aiding and abetting the same.

Committing Officer.—Mr. A. J. Jackson, officiating magistrate of Rajshahye.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 22nd November, 1855.

Remarks by the sessions judge.—The reason for this reference is, that the law officer, in his *futwa*, convicts one prisoner of rape and acquits the other, and here I differ with him.

The circumstances of the case are briefly as follows.

The prosecutrix had gone to visit her mother, who was unwell and resided in an adjacent village, accompanied by another female friend (witness No. 1,) and when on their way back in a very *jungly* part of the road, they were met by the prisoners, who are brothers, and the elder, No. 1, seized hold of the prosecutrix, while No. 2, put a cloth round her mouth and then came and stood by the witness (to prevent her going away or making an outcry) till the first prisoner had gratified his lust. A complaint was lodged before the village chowkeedar, but being ill, he made no immediate report to the thannah, and consequently there was some delay in the police investigating the case.

No. 1, before the darogah, again before the officiating magistrate, confessed to having had forcible connection with the prosecutrix, and that he was induced to do so by his employer Melun Mundul, because the prosecutrix had abused him (the Mundul) for allowing his horse to trespass and destroy her *paddy* crop.

No. 2, confessed to being present, when his brother committed the rape, but he had not assisted him, and been *forcibly* made to go along with the other prisoner. He repeated too

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what had led to the commission of the rape, and with equal precision. The confessions he had made (before the police and magistrate) he admitted in this court.

Not knowing what the confessions contained (for I make it a rule not to read any confessions till the evidence for the prosecution is closed, not to have any bias against the accused) no question was put to the prosecutrix or her female companion as to the trespass. But even if there had been a little abuse given to the Mundul, the license taken by the prosecutrix with her tongue, did not warrant the gross liberty taken on her person by the prisoner in revenge.

I therefore fully concur with the *futwa* in the conviction of No. 1, of rape, and the sentence for such crime resting with the Court, I leave it for them to determine the amount.

As for No. 2, there can be no doubt he accompanied No. 1, and remained a passive spectator of a crime, which he could have prevented if he chose, and his standing by, was only to prevent the other witness assisting her friend. His plea that he was *forced to go* is perfectly absurd, for though younger he is taller than his brother, and could easily have remained away, or denounced his brother to his neighbours.

I therefore beg to propose, that under the charge, the prisoner be convicted of being present, aiding and abetting in rape, (as he was a passive spectator of the crime) and be sentenced to two years' imprisonment. His plea of being *forced to accompany the other prisoner*, being no excuse for his allowing him to ravish the woman, and which he could so easily have prevented with the other witness if he had liked.

Both the females are widows, not very young, and both, according to the villagers, modest women and respectable. What they have said they have been consistent in throughout; and from the way they gave their evidence in this court, I place the greatest confidence in its truthfulness.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We convict the prisoners on their own confessions; the prisoner Akbur, of having had forcible connection with the prosecutrix and the prisoner Haran of aiding and abetting in the crime. We sentence the former to four years' imprisonment with labor in irons, and the latter to two years.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND SREEMUTTY MUNSOOR BEEBI

versus

ASMUT ALI.

Chittagong.

1855.

December 28.

Case of ASMUT ALI.

Prisoner acquitted as the same witnesses varied in their statements in the several stages of the enquiry; and the different witnesses told different stories.

CRIME CHARGED.—Having committed rape on the person of the prosecutrix, Munsoor Beebi.

Committing Officer.—Mr. W. H. Henderson, officiating magistrate of Chittagong.

Tried before Mr. R. H. Russell, officiating additional sessions judge of Chittagong, on the 29th November, 1855.

Remarks by the officiating additional sessions judge.—The prosecutrix states that on the evening of the 5th Kartick, she went to the prisoner's house at the request of his grandmother and wife, to be paid for her labor; as she was coming out, she saw the prisoner seated at the door of the vestibule, who offered her money, if she would let him have connexion with her, she refused, when he seized her, tied her arms, threw her down, and when she cried out, beat her; he was unable to effect his purpose, however, though he uncovered her, and when the neighbours came up, let her go. Before the magistrate, she stated that he had partially accomplished his purpose, but was interrupted.

Witness No. 1, states that hearing some one cry out that she was being beaten, he went to the door and saw plaintiff lying on the ground uncovered, and prisoner seated on her chest, beating her. Before the magistrate, he stated that he saw the prisoner in the act of coition. When asked, if he was in any way connected with the plaintiff, he denied, but subsequently admitted on cross-examination that her father and his are cousins. The truth appears to be that they are own brothers. The denial of relationship appears to have been made with a view to induce the court to give greater credence to his testimony. I have ordered him to be committed for perjury.

Witness No. 2, adheres to his statement made before the magistrate, but it is inconsistent with the present statement of the prosecutrix and with that of witness No. 1.

Witness No. 3, who swore to having witnessed the rape before the magistrate and seen both undressed, now states that he only saw them outside in the court ground dressed. He also has been ordered to be committed for perjury.

There is no other direct evidence.

The law officer acquits of the crime charged, but considers proved that the prisoner did seize the prosecutrix with intent

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to commit rape upon her and that he is therefore liable to *tazeer*.

I do not deem the evidence sufficient to convict of the attempt even. The law officer has not stated how far he considers the evidence to the felonious attempt to be trustworthy.

If the evidence of Ramjan Ali is to be believed, the conviction might have been had on the crime charged, but this would have gone further than the statement of the prosecutrix. The discrepancies in the evidence of the prosecutrix and of the other witnesses deprive them of all credit in my opinion. I do not believe that the witnesses saw what they stated they did either to the magistrate or to this court.

It is improbable that an attempt to force the prosecutrix should have been made in an open house in the midst of the village, where any one passing by would be almost sure to be attracted by any noise made, and would be able to witness without difficulty all that occurred.

No complaint was preferred till six days after, though the village is but a short distance from the thannah, and a journey of a few hours only from the station. The objection that the court was closed for the holidays, I cannot consider sufficient, the thannah at all events was open. The prisoner's countercharge is not less open to suspicion, or I should have had little hesitation in rejecting the charge as altogether unfounded. On a charge of rape, the party charged may be convicted of the attempt, if the crime should not turn out to have been completed, but in the present case, I cannot deem the attempt, to be so satisfactorily proved, as to warrant a conviction. I would therefore acquit the prisoner. The case must in consequence of this difference of opinion be reported to the Nizamut Adawlut and the prisoner must remain in custody till the orders of the Court are known.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) We agree with the sessions judge that the evidence is open to question. The witnesses vary their testimony at the several stages of the enquiry and in many particulars differ from each other.

We acquit the prisoner and order his release.

PRESENT:
H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT
versus
DILAWUR ALI (No. 11,) AND UFZUL KHAN (No. 12.)

Patna.

1855.

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Case of DILAWUR ALI and another.

The prisoners were acquitted as the interpolation charged, was not injurious, nor had been made with a fraudulent intent.

CRIME CHARGED.—Uttering forged document with guilty knowledge.

Committing Officer.—Mr. W. Ainslie, magistrate of Patna.

Tried before Mr. G. D. Wilkins, officiating sessions judge of Patna, on the 12th October, 1855.

Remarks by the officiating sessions judge.—With reference to the 1st two counts of this indictment, there is no proof whatever against the prisoners. No one saw them write the suspected words, and the hand-writing has not been identified. The third count has been proved to the following extent. It is shown by the evidence of Meer Furzund Ali, mooktear, (a most respectable pleader in my court) and of Sheikh Fyaz Ali, witnesses Nos. 1 and 2, that a power of attorney was attested and filed in the assistant magistrate's court on 30th June, 1855, bearing the names of Unwur Ali, Wuzeer Ali and Enayut Ali only, the mooktears being Meer Furzund Ali and the prisoner No. 12, Ufzul Khan. The case was then tried, and during the trial Dilawur Ali, prisoner No. 11's name became somehow added to it, and he attended the trial, the prisoner Ufzul Khan acting in it as his attorney under the above *mooktearnamah*, Meer Furzund Ali withdrew from the case at once after the power of attorney had been filed, in consequence of a dispute with his clients about his expenses. The prisoner Ufzul Khan stated before the magistrate that Dilawur Ali's name was in the body of the *mooktearnamah* when it was filed, and he has produced evidence to this effect, but he has confessed before me that the three first names only were really attached to it when it was presented in court, and that in fact he was legally constituted attorney of these three persons only. It is thus in my opinion proved both from the above direct evidence, from Dilawur Ali's defence, and counter-evidence that his name was in the *mooktearnamah* from the first, both as to the contents and as to his own individual signature on the margin, from the prisoner Ufzul Khan's partial confession, and from the evident interpolations in the document, that the two prisoners so far uttered the forgery that they benefited by it, and knowingly and fraudulently gave it effect in the assistant's court.

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Case of DILAWUR ALI and another.

It is proved too by the witnesses Goorshahai and Beneemadhub Nos. 3 and 4, that the signature of Dilawur Ali on the margin was not to it even after the case had been decided, and thus the addition of the name of Dilawur Ali in the body of the paper is the forgery which was uttered and given effect to. The addition of the words "Dilawur Ali's signature is right" after the endorsement of the prisoner Ufzul Khan on the back of the *mooktearnamah, and which is in the same handwriting*, is a further proof of the tampering the paper has been subjected to with the knowledge of the prisoner Ufzul Khan, and is in itself proof of guilty knowledge, such notices being in ordinary cases never made.

This is in itself a very trumpery matter, but there is in this city such rampant forgery, extending to the record rooms of all the public offices, that I think an example should be made, and I therefore recommend the prisoner Ufzul Khan, be imprisoned six months, and the prisoner Dilawur Ali three months, both without labor; in the first case on account of the prisoner's age and feebleness: and in the second on account of the prisoner's rank in life, and because his part in the business has been merely to follow the guidance of his legal adviser. The law officer declares both prisoners liable to "*tazeer*."

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The sessions judge has acquitted on the two first counts in this case. There remains for consideration but the third count.

The forgery of Dilawur Ali's name has not been proved, in fact he deposes to his signature. As the crime of forgery is not established, there cannot be a conviction on the ground of uttering. At the most it can only be held that there has been an interpolation of Dilawur Ali's name, but such interpolation was evidently with his knowledge and consent, and did not vitiate the *mooktearnamah* nor prevent those originally executing it from the use of it. In fact it is not apparent that the interpolation was injurious to any one or was made with fraudulent intent. We acquit the prisoners and direct their release.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT AND LALMONEY DHOBANEE *versus* RAMKISSORE DOME, CHOWKEEDAR.

Moorshedabad.

1855.

December 28.

Case of RAMKISSOR DOME CHOWKEEDAR.

Prisoner convicted on clear evidence of knowingly possessing stolen property, and sentenced to three years' imprisonment with labor and irons.

CRIME CHARGED.—1st count, burglary in the house of the prosecutrix, from which property to the value of Rs. 7-4, was stolen; 2nd count, knowingly receiving and possessing the stolen property acquired by the said burglary.

CRIME ESTABLISHED.—Knowingly receiving and possessing the stolen property acquired by burglary.

Committing Officer.—Mr. O. Toogood, magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 1st September, 1855.

Remarks by the sessions judge.—There is strong suspicion in this case that the prisoner committed the burglary, but there is no evidence to convict him on the 1st count.

There is however sufficient proof to convict him on the 2nd count, of knowingly receiving and possessing the stolen property acquired by the said burglary.

Witnesses Nos. 2, 3, 4 and 6.

The property found in the prisoner's house is identified by the respective owners, and concurring with the *futwa* in the conviction of the prisoner on the 2nd count, I sentence him to three years' imprisonment with labor in irons.

Witnesses Nos. 2, 4, 5 and 7.

The property to be restored to the owners.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) The evidence appears to be strong and conclusive against the prisoner in whose house the stolen property was found. We see no reason to interfere with the conviction and sentence.

PRESENT:
H. T. RAIKES AND J. H. PATTON, Esqs., *Judges.*

GOVERNMENT
versus
HOSAIN GAEN.

Dinagepore.

1855.

December 28.

Case of HOSAIN GAEN.

Sentence of three years' imprisonment mitigated to imprisonment for six months on a reference from the judge under sec. 9, Reg. XVII. of 1817.

CRIME CHARGED.—1st count, perjury, in having on the 14th of July, 1855, intentionally and deliberately deposed, under a solemn declaration taken instead of oath, before the officiating magistrate of Dinagepore, that he saw Bhabur Sirkar strike Apoorgee Bewa with a *khattea* or thick short stick, and, in having, on the 16th of July, again intentionally and deliberately deposed, under a solemn declaration taken instead of oath, before the said officiating magistrate of Dinagepore, that I went to Bhabur's house on hearing the boy Kantoo's cries, I saw Apoorgee Bewa on the ground struggling and at the point of death, I did not see the blow struck, the defendants were sitting down; such statements being contradictory to each other on a point material to the issue of the case; 2nd count, perjury, in having on 16th July, 1855, intentionally and deliberately deposed under a solemn declaration taken instead of oath, before the officiating magistrate of Dinagepore, that I saw Apoorgee Bewa on the ground struggling and at the point of death, I did not see the blow struck; and in having on the 16th July, 1855, again intentionally and deliberately deposed under a solemn declaration taken instead of oath, before the said officiating magistrate of Dinagepore, that I was present and saw the assault on deceased; such statements being contradictory to each other on a point material to the issue of the case.

Committing Officer.—Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr. J. Grant, sessions judge of Dinagepore, on the 10th of September, 1855.

Remarks by the sessions judge.—The prisoner was prosecutor in a case of culpable homicide and first deposed to having seen the deceased struck. Subsequently he stated that he did not see the blow struck and again on the same day that he did. The *futwa* of the law officer convicted the prisoner, and I sentenced him to three years' imprisonment, under Clause, 2, Section 9, Regulation XVII. of 1817. The prisoner pleaded deafness and distraction of mind in consequence of the death of his sister, who left two young children, but there is nothing in his deposition before the magistrate which supports either plea, as it is clear from it that his object was to exaggerate the case against the man who killed his sister, and that his assertion that

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he had not seen the blow struck was extracted in cross-examination as to his having allowed his sister to go to another man's house and not having prevented the assault. When questioned as to the contradiction, he evidently considered it best, with reference to his wish to exaggerate, to adhere to his first assertion. I however, under the circumstances, think that six (6) months' imprisonment would be a sufficient punishment, and therefore recommend mitigation to that extent under Clause 3, Section 9, Regulation XVII. of 1817.

Remarks by the Nizamut Adawlat.—(Present: Messrs. H. T. Raikes and J. H. Patton.) There is no doubt that the prisoner has contradicted himself, but in consideration of the sessions judge's recommendation to that effect, we mitigate the sentence passed upon him to six months' imprisonment.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

FOHTOO NUSHO (No. 4,) SHABURDEE NUSHO (No. 5.)

Dinagepore.
1855.
December 28.
Case of
FOHTOO
NUSHO
and another.

Unexpired portion of sentence in a case of perjury remitted on reference under sec. 9, Reg. XVII. of 1817.

CRIME CHARGED.—1st count No. 4, perjury, in having, on the 29th January, 1855, deposed under a solemn declaration taken instead of an oath before the collector of Dinagepore, that his name was Mohtoo, whereas it appears that his name is Fohtoo; such deposition being false and having been intentionally and deliberately made on a point material to the issue of the case; 2nd count, fraud in having knowingly personated his brother, Mohtoo. No. 5, 1st count, subornation of perjury, in having caused the defendant, Fohtoo, to state falsely and deliberately on a point material to the issue of a case in which he was an interested party that his name was Mohtoo, he, Shaburdee, being present and knowing the contrary to be the case; 2nd count, fraud in having caused the defendant, Fohtoo to state that his name was Mohtoo; 3d count, privity to the above perjury and fraud.

Committing Officer.—Mr. T. E. Ravenshaw, officiating magistrate of Dinagepore.

Tried before Mr. J. Grant, sessions judge of Dinagepore, on the 10th September, 1855.

Remarks by the sessions judge.—The prisoners were charged with perjury and subornation of perjury in a summary suit before the collector; "Fohtoo" having given evidence for "Shaburdee" in the name of his brother, Mohtoo. The *futwa* of the law

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officer convicted the prisoners, and I sentenced them each to three years' imprisonment, under Clause 2, Section 9, Regulation XVII. of 1817. Both the prisoners are ignorant rustics and neither they nor the Pyadah, who served the subpœna, can read. Fohtoo and Mohtoo, who are own brothers, were found together when the Pyadah asked the former, the elder, if he would submit, and on his replying in the affirmative, carried him off as a witness. It is more than probable that when it was discovered that "Mohtoo" was the name in the Subpœna, the prisoners were advised to act as they did, and quite possible that they did not think there was any thing wrong in their so doing. They have moreover, now been in durance. "Fohtoo" since January and "Shaburdee" since March, in consequence of their former commitment having been quashed, I therefore recommend that the remaining period of imprisonment to which I was obliged to sentence them be remitted under Clause 3, Section 9, Regulation XVII. of 1817.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) There seems to have been no conspiracy or fraudulent intent on the part of the prisoners deserving of a severer punishment than they have already undergone. We therefore admit the sufficiency of the sessions judge's recommendation in their favor, and remitting the remainder of the sentence passed upon them, direct their release.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*

GOVERNMENT AND SHEIKH ANNOO

versus

SHEIKH JOOMUN ALIAS SHEIKH BOCHA.

Mymensingh. 1855. December 31. Case of SHEIKH JOOMUN *alias* SHEIKH BOCHA.

The prisoner was convicted of culpable homicide for killing by unnecessary violence a thief.

CRIME CHARGED.—Wilful murder of Sheikh Ashker.

Committing Officer.—Mr. R. Alexander, magistrate of Mymensing.

Tried before Mr. W. T. Trotter, sessions judge of Mymensing, on the 11th September, 1855.

Remarks by the sessions judge.—The prosecutor states that his father having died, he was informed by his sister, witness No. 17, that he died of pain in the chest and he was accordingly buried; that three days after he heard from Pettah, witness No. 20, and his sister, No. 17, that the prisoner had murdered his, the prosecutor's father, on the plea of his having entered his house as a thief and that he accordingly gave information to the police, when the corpse was disinterred.

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There were no eye-witnesses to the assault, but witness No. 15, mother of the prisoner, states that she awoke from her sleep and saw a burglarious hole in the house, and immediately called out to her son, the prisoner, that thieves had dug a hole in the house, whereupon the prisoner replied that a thief had entered the house whom he struck with a stick (used for driving cattle with) and that the thief having fallen on the ground asked him to accompany him to his house which he did; that she, witness, did not see the thief. Witness, No. 16, wife of the deceased, deposes that early in the morning, at about day-break, the prisoner left the deceased in a bad state close to her house and threatened her with the like treatment if she revealed the matter to any one; that she accordingly dragged the deceased into the house and did not relate the matter to any one; that her daughter, Fooljan, witness No. 17, considering that deceased died of pains, with which he was afflicted, called the villagers and buried him. Witness No 17, also corroborated her mother's story, alleging that she heard from her mother that the prisoner had killed him (deceased). The other witnesses to the circumstances of the case also state that they heard from the prosecutor that the deceased went to steal in the prisoner's house, where he was severely assaulted and from the effects of which, he died.

Although the body was exhumed ten days after the occurrence, the civil assistant surgeon, who examined it, deposed that it was not in such a decomposed state as not to admit of examination, its preservation he ascribed to being buried; that he found the deceased's death to have been caused by a severe injury of the chest, eight ribs on each side were fractured, some in two places, the external bone of the forearm was also fractured, and that there were marks of bruises on the arms, legs and thighs.

Before the police and magistrate, the prisoner stated that as the deceased was making his escape, he chased him and struck him a blow, and the deceased having fallen on the ground he assaulted him with his hands and feet. In this court, he denied the charge and stated that he only struck him a blow with a stick.

The law officer, considering the case not proved, has given in a verdict of acquittal; he records that the evidence of the deceased's wife and daughter is of no avail, and although the prisoner's mother has deposed that she heard from her son that he struck the deceased, still the evidence of a single witness is not valid and consequently insufficient to criminate him, and that strong suspicion attaches itself to the case by the behaviour of the deceased's wife and daughter, who, on the day after the occurrence, called the prosecutor and told him that the deceased's death was caused by pains, and, three days after his burial, gave out what they state to be the real facts.

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I dissent from this verdict, because, although the prisoner has denied in this court having murdered the deceased, still he states that he struck him a blow with a stick, and his confessions before the police and magistrate have been fully substantiated by the subscribing witnesses to have been voluntarily made, and which the prisoner also does not altogether deny; besides, his mother has given evidence against him, which would not have been the case, had the facts not been true; it is moreover evident from the deposition of the civil assistant surgeon that the deceased's death was caused by the severe injuries he received and not from sickness. As it has been clearly proved, not only from the prisoner's confessions before the police and the magistrate and the tenor of his answer in this court, as well as on the general circumstances of the case that the prisoner assaulted the deceased in the most wanton and cruel manner, by which eight ribs on each side were broken and the bone of the forearm fractured, which caused his death, I would convict him of culpable homicide and recommend that a sentence of certainly not less than (7) seven years' imprisonment with labor and irons should be passed against him.

Remarks by the Nizamut Adawlut.—(Present: Messrs H. T. Raikes and B J. Colvin). Admitting the prisoner's statement to be true, that he followed in pursuit of the deceased as he was trying to escape after committing a burglary, we nevertheless consider that he was not justified in inflicting upon him the severe beating, which the medical evidence shows the deceased must have received, as it was plainly unnecessary for the purpose of securing him. As what he did, however, was in sudden heat upon provocation, to which weight must be given as a circumstance in extenuation of his guilt, we convict the prisoner of culpable homicide and sentence him to five years' imprisonment with labor and irons.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, Esqs., *Judges*.

GOVERNMENT AND RADAGOBIND

versus

KRIST GOBIND MALAKAR, (No. 1,) SREEDHUR GHOSE (No. 2.)

Moorshedabad.

1855.

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Case of KRIST GOBIND MALAKAR and another.

The intention to kill deceased not being established, the prisoner was convicted of culpable homicide.

CRIME CHARGED.—Wilful murder of Nobodeep Chunder Dutto, brother of the prosecutor.

Committing Officer.—Mr. W. C. Spencer, officiating magistrate of Moorshedabad.

Tried before Mr. D. J. Money, sessions judge of Moorshedabad, on the 26th November, 1855.

Remarks by the sessions judge.—The prisoners pleaded not guilty.

Witnesses Nos. 1 and 2.

It is in evidence that the deceased Nobodeep Chunder Dutto, brother of the prosecutor, was enticed by the prisoner No. 1, on the night of the 30th August last, about midnight, to leave his house and go out with him first on the plea of "doing *nashtachundra*"* which he refused to do, and then on the plea that some body wanted him which prevailed.

Witnesses Nos. 1 and 2.

Some time after, there appears to have been a noise heard near the prisoner's dwelling, they live close together, and the witnesses Nos. 1 and 2 hastening to the spot, saw the prisoner beating the deceased with *lattees*. The prisoner No. 1, struck him first, and then prisoner No. 2, struck him, when he fell on the ground. The witnesses saw this about 19 cubits off, and the prisoner perceiving them called out, and threatened them, and they ran away from fear.

Witnesses Nos. 6, 15, 16 and 17.

Immediately after, other villagers appear on the spot, and the deceased is found lying on the ground severely beaten and the prisoners near him. The deceased declared in their presence that they had beaten him. Witness No. 16, stated that the prisoners admitted that they had beaten a thief.

* *Nashtachundra* is the moon of the two *chatoorthees* or fourth lunar days of the month of Bhadro. It is said that a (Hindoo) deity had declared that whoever would see *nashtochundra*, it shall be his fate to be blamed for some crime, consequently it is the practice among the uneducated Hindoos that if any of them sees *nastachundra* he steals that night some fruits, &c. belonging to a friend or neighbour, or does him some slight injury, in order that he may meet the fate, and at the same time be not accused of, or punished for the offence.

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Case of KRIST GOBIND MALAKAR and another.

In addition to this evidence Rebatty Bewah, a widow, who lives close to the prisoners' dwellings and who is suspected of having been on too familiar terms of intimacy with the prisoners and the deceased, and to have given rise to a feeling of jealousy in the former, to one of whom she is distantly related, deposes to the fact of hearing the deceased call out to her, that the prisoners were killing him and that she was to get up, and that she got up and saw from her house, about ten or twelve cubits off, the deceased on the ground, and the prisoners laying hold of him. She also saw witness No. 6, receive charge of the deceased, and take him away.

Witness No. 18.

Witness No. 6, states that when he wished to take the deceased away, the prisoners asked him if he would be security for him; he said he would, upon which they allowed him to take him away.

Witness No. 6.

He was taken to the zemindar's cutcherry where he adhered to the same statement, that the prisoners had beaten him, and was afterwards about 11 A. M removed to his own house, where he could not speak, died the same evening about 8 P. M.

Witnesses Nos. 1, 2, 6, 22 and 23.

He appears to have been beaten severely on the side of the head, and on the chest and the stomach.

Witnesses Nos. 4, 6, 15, 16, 17, 22 and 23.

The prisoner No. 1, made a partial confession at the thannah and before the magistrate, and his confessions, such as they were, are proved by the attesting witnesses.

At the thannah he stated that the deceased came near his house to "*make nustochandra*" and that he and the other prisoner seized him, and that he struck him with his fist and open hand and that prisoner No. 2, struck him with a *lattee*, which was in his, prisoner No. 2's house.

Before the magistrate he denies that he beat the deceased, and gives a different statement, that he and the deceased and others on the night of the *nustochandra* had been out cutting plantains and then came to his house, and after a short time deceased left for the purpose of getting some more plantains, and soon after they heard a noise, and went out, and saw prisoner No. 2, beating the deceased who was calling out, but he did not see any weapon in the prisoner's hands.

The prisoner No. 2, at the thannah and before the magistrate denied that he beat the deceased, and stated that on the night in question, about 2 A. M. three men came near his house to "make *nustochandra*" and cut plantains and other fruits, and that prisoner No. 1, tried to cut them off and stop

them, and that on their attempting to beat him he shouted out, when he and Nobeen and Cheeneebas and Muddoo ran out and saw the prisoner No. 1, throw the deceased upon the ground, and both struggling together prisoner uppermost, that they both had *lattees* in their hands, but that he did not see prisoner, No. 1, strike deceased.

Dr. Saunder's evidence is not clear and distinct as to the cause of the death of the deceased in consequence of the advanced state of decomposition of the body. Nevertheless he deposes that from the appearances, he observed, the deceased must have received a severe beating, and that the injuries he noticed would in all probability cause death, and that it is most likely those injuries were produced by a *lattee*.

I notice that the letter of the magistrate sending the body for examination is dated 3rd September, and that the body was examined on the 2nd September. A separate letter with reference to former instructions from this court relative to this subject will be addressed to the magistrate.

A *lattee* found concealed in some straw outside the house of prisoner No. 2, was produced before me, and stains of blood were observable on it, but no witnesses were sent to prove that it was discovered there and belonged to the prisoner No. 2.

The jury convict the prisoner of severely beating the deceased with the intention of killing him.

Taking all the facts, as elicited by the evidence, in connection with each other, I can come to no other conclusion than that the deceased was enticed from his house purposely with some preconcerted evil design and that, although the appearance of the woman Rebuttee Bewah was against such a supposition, it was probably from jealousy on her account he met with his death at the hands of the prisoners, and I would therefore recommend them, as guilty of the murder of the deceased, to be sentenced to imprisonment for life in transportation.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We do not feel satisfied that there was any previous intention to kill the deceased. The fact of his having been called out with that object is not conclusively established by evidence, but it is plain from the prisoner's own admission and from the depositions of the witnesses that he was assaulted by the prisoners, and although they may not have intended his death, yet so severely was he beaten that he died the following day. We convict Sreedhur Ghose prisoner No. 2, of culpable homicide and sentence him to seven years' imprisonment with labor and irons. The death of prisoner No. 1, Krist Gobind Malakar, has been reported by the sessions judge in his letter No. 278, dated 19th instant.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges*.

GOVERNMENT AND TUFOORAH NUSHOO

versus

TANDEE MUNDUL (No. 17,) MANBOR PURAMANICK (No 18.)

Rungpore.

1855.

December 31.

Case of TANDEE MUNDUL and another.

Appeal rejected.

CRIME CHARGED.—Burglary attended with wounding.

CRIME ESTABLISHED.—Burglary with wounding.

Committing Officer.—Mr. H. Nelson, joint-magistrate of Bograh, Rungpore.

Tried before Mr. G. U. Yule, sessions judge of Rungpore, on the 8th October, 1855.

Remarks by the sessions judge.—The prosecutor's mother hearing a noise and observing light in the hut about midnight, woke up her son who, seeing a man inside, immediately seized him, and as they struggled, another man forcing open the door rushed in and striking the old woman who was aiding her son, several blows with a stick, two of them severe ones, on the head knocked her down, rescued the first prisoner and ran away, the night was bright star-light, and both mother and son recognized the two prisoners and told their names to the villagers who came immediately hearing the row, two of whom also saw the prisoners running from the prosecutor's house and distinctly recognized them, one of the witnesses being shoved down by prisoner No. 18; prosecutor's mother was senseless but soon recovered and then described what had occurred mentioning the prisoners by name, and two holes were found cut in the wall, one of them not quite through, these facts were fully established by the evidence. The prisoners plead enmity on the part of the prosecutor, but except a petty quarrel some time previously, they do not know of any regular enmity existing. The prisoners have no cattle or ploughs and seem to be suspected of evil practices. The jury Golucknath Doss, Gobindmohun Doss and Lala Ramlal convicted the prisoners and I concurred, and as the blows on the head of prosecutor's mother were rather severe, I sentenced them as stated below.

Sentence passed by the lower court.—Each to be imprisoned with labor and irons for three (3) years.

Remarks by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and B. J. Colvin.) The prisoners were recognized in the act of burglary by the prosecutor and his mother, who were well acquainted with them.

We see no reason to doubt the truth of the evidence for the prosecution and reject the appeal.

It repeats the plea of enmity but, as the sessions judge observes, the cause is too trivial to account for a false charge being brought against the prisoners.

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Case of TANDEE MUNDUL and another.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND SREEMUTTEE JOYNUB

versus

PATAN GAZEE ALIAS PATOO.

Tipperah.

1855.

December 31.

Case of PATAN GAZEE *alias* PATOO.

The prisoner was sentenced capitally on conviction of wilful murder.

CRIME CHARGED.—Wilful murder of Ameena, daughter of the prosecutrix.

Committing Officer.—Mr. A. Abercrombie, magistrate of Tipperah.

Tried before Mr. H. C. Metcalfe, sessions judge of Tipperah, on the 8th December, 1855.

Remarks by the sessions judge.—The prisoner married the deceased woman Ameena, eight or nine years ago, when she was herself eight or nine years of age. He is stated to have been habitually unkind to her, refusing even to allow her to pay occasional visits to her parent. His refusal was conveyed by the course expression that she was his "mortgaged slave," and his treatment of her continuing harsh and cruel, her mother, whom the prisoner had driven from his house, determined to apply to the magistrate to interfere for her protection. The court happening to be closed, when she arrived at the station for this purpose, the presentation of the petition was delayed. While awaiting the reopening of the courts, the prosecutrix was visited at her temporary lodging by Mahomed Hossein, the farmer of the village in which the prisoner resides. The prisoner, who accompanied him, did not enter the house, but sat down under a clump of bamboos close at hand, from whence he could easily have overheard, and, she believed, did overhear, the prosecutrix informing Mahomed Hossein of her intention to petition the magistrate regarding the ill-treatment her daughter was subjected to by the prisoner.

On the night of the same day, the wife was murdered by her husband, the prosecutrix doubted not in consequence of what he had overheard in the course of her conversation with Mahomed Hossein of her intention to petition the magistrate.

The records of a case forwarded for my inspection by the magistrate show that the murdered woman left her husband's home in September last, to take refuge with her parents from the ill-treatment she experienced at the hands of her husband.

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On that occasion, he endeavoured to recover her by what ultimately proved to be a wholly unfounded statement of her having been seduced from her home for evil purposes, the fact being that she was driven from it by his own violence.

The prisoner pleaded *not guilty*.

His mother, Musst. Nónya, (witness No. 37,) deposed that on the night of her daughter-in law's death, she was aroused from sleep by a cry of *mah, mah.* Rising with her younger son, she left the room and calling to the prisoner, who had gone to rest with his wife in an adjoining apartment, enquired what they were about. He told her, from within, that his wife was sleeping and himself sitting up, but on opening the door and entering his room, she found her daughter-in-law weltering in her blood and the prisoner standing near the body in a state of great agitation with a *dao* in his hand. She subsequently noticed a wound just above the murdered woman's chin, and another which had nearly severed the head from the body. In answer to her question as to how this had occurred, the prisoner replied that his wife had either destroyed herself or had been murdered by some libertine (*loocha.*) The witness referred to the circumstance of her daughter-in-law having left her husband in September last, observing that, after her return, there had been no disagreement between them, although previous quarrels had been of frequent occurrence arising from misconduct on her part.

The witness was reminded that when examined by the magistrate she had deposed to her son's instant admission to her of having himself murdered his wife, and was asked how she reconciled that statement with her present deposition that he attributed his wife's death either to suicide or to the act of some libertine, she replied that her first statement was the correct one, admitting also, that she had deposed before the magistrate to the payment by her son of Rs. 7½ to the farmer, Mahomed Hossein, to induce him to hush up the affair.

Theera Gazi (witness No. 38,) the prisoner's younger brother who was aroused at the same time with his mother by Ameena's cries, saw through the partly opened door the prisoner standing near his wife's body with a *dao* in his hand. According to his statement, life was not then wholly extinct, the limbs being apparently convulsed, but as he did not enter the room he noticed no effusion of blood. He was aware of the money presented to the farmer, Mahomed Hossein, on the morning after the murder, and was also aware that the object in giving it was that the occurrence might be hushed up. He heard the prisoner answer his mother when she questioned him, in the following terms, "If I did it, I did it: what is it to you?" The prisoner and the deceased woman were not on affectionate terms, and he

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occasionally, but not latterly, beat her. The witness knew nothing of misconduct on the wife's part.

The 3rd witness, Herun Gazee, No. 39, is the prisoner's father. He also entered his son's apartment on the night of the occurrence and saw him standing near the body of his murdered wife, trembling with agitation, and holding a bloody *dao* in his hand while near him the body of the woman was lying on the ground with the throat cut. Before leaving her husband in September last, they lived together on bad terms, and he occasionally beat her, latterly there was better feeling between them, but the witness spoke unfavorably of his daughter-in-law's general character.

The village Chowkeedar (witness No. 40,) saw the prisoner quit his house at midnight and go to the entrance of the farmer Mahomed Hossein's house. On the following morning he was summoned to the prisoner's residence, where he saw the body of the murdered woman and noticed stains of blood on the prisoner's feet. The witness Munnoo, (No. 41,) also observed stains of blood on the prisoner's cloths.

The medical officer, in charge of the station, deposed that death was caused by two incised wounds in the throat dividing the trachea and esophagus and wounding the anterior surface of the bone of the vertebral column of her neck. Both cheeks were wounded, the wound on the right cheek communicating with the mouth. The wounds in the throat were such as the deceased could not possibly have inflicted on herself. The instrument used must have been a sharp and heavy *dao* or knife.

The defence was, that the woman had either killed herself to get the prisoner into trouble, or had been murdered by some dissolute person (*loocha*). The prisoner denied having been in the habit of ill-using her, and added that she lived contentedly with him.

The only witness called into court to establish this defence not only failed to do so, but in fact rather supported the case for the prosecution. The prisoner declined having his remaining witnesses examined.

The Mahomedan law officer declared the prisoner guilty of the wilful murder of his deceased wife, Ameena, and pronounced him liable to *seeasut*.

The more material evidence in support of the prosecution is derived from witnesses who are united to the prisoner by the closest ties of relationship, and it is impossible to suppose otherwise than that his father, mother, and brother, have far from exaggerated, or mis-stated, otherwise, unfavorably to the prisoner, the circumstances to which they have deposed. There is every ground, I think, for the conclusion that the prisoner was a harsh and unkind husband and without any extenuating cause for his habitual severity to his wife, misconduct on whose part,

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if hinted at, is certainly not established. He appears to have been alarmed into greater gentleness by his wife's flight from her home in September last, and to have treated her latterly, if not with greater kindness at least with less active harshness. But when his suspicions of the mother's intentions in coming to Comilla were confirmed either by over-hearing her conversation with the farmer, Mahomed Hossein, or by ascertaining its purport afterwards from the latter, his ungovernable passions seem to have been aroused to the highest pitch of irritation, angered at the threatened appeal to the magistrate, he doubtless determined to defeat all interference between himself and his unfortunate wife by placing her beyond the reach of human aid. The murder was in itself a peculiarly savage one, the throat being doubly cut, and the head very nearly severed from the body. The body was found in the second compartment of the room occupied by the prisoner and his wife, which appears to be separated from the compartment in which they slept by a *tattee* or *mat* wall, nearly, but not quite, crossing the width of the room. She would appear either to have struggled into this outer compartment in a vain effort to escape after being wounded on the face, or it may be, that the body was purposely placed there to give a colour to the plea subsequently adopted by the prisoner that she had been murdered by some libertine.

I am of opinion that the prisoner has incurred the extreme penalty attending the crime of wilful murder, and that he should be sentenced capitally.

Remarks by the Nizamut Adawlut—(Present: Messrs. H. T. Raikes and B. J. Colvin.) We fully concur with the sessions judge in convicting the prisoner of wilful murder. There is no reason to doubt the truth of the evidence for the prosecution, especially as the chief witnesses are the prisoner's nearest relatives. We accordingly sentence him to suffer death.

PRESENT:

B. J. COLVIN, Esq., *Judge*.

GOVERNMENT AND DEGUMBUREE GWALIN AND GANESS.

versus

DEGUMBUR DASS BYRAGEE (No. 3,) LOKENATH BENIA ALIAS LOKAE BENIA (No. 4,) NOBIN GOWALA (No. 5.)

Beerbhoom.

1855.

December 31.

Case of DEGUMBUR DASS and others.

Appeal rejected.

CRIME CHARGED.—1st count, burglary and theft of property valued at Rs. 121, committed in the house of Degumburee Gowalin, prosecutrix ; 2nd count, knowingly receiving and retaining property acquired by committing the abovementioned burglary.

CRIME ESTABLISHED.—Burglary.

Committing Officer.—Mr. A. Rivers Thompson, officiating magistrate of Beerbhoom.

Tried before Mr. Francis Lowth, sessions judge of Beerbhoom, on the 1st November, 1855.

Remarks by the sessions judge.—On the 31st Assin, or 16th October, last, the prosecutrix went to see her adopted daughter in Chota Bazar, about half mile distant, leaving her brother Ganess (who has joined in the prosecution) in charge of her house. On her return the following morning she found the padlock, with which she had secured the door of the room, broken, her two *pittarahs* lying open, and property, consisting of cash, jewels, &c. to the amount of Rs. 121 carried off. It appears, Ganess had gone out during the previous evening to hear the music at the poojah and during his absence, the burglary was committed. There were also marks of the thieves having entered the premises by getting over the wall to the westward, where it was low. Prisoner No. 5, was caught in the act of concealing some clothes, Nos. 6 to 17, in a pot in a tank,. and made a full confession before the darogah implicating the other two prisoners, in whose houses also, articles of jewelry marked 1 to 5, were found, thus making the total value of the property recovered to amount to Rs. 55-6-9. The two prisoners Nos. 3 and 4 also confessed before the police to having committed the burglary and stolen the property found in their possession. All the three prisoners repeated their confessions before the magistrate, which in this court, they not only all fully admitted but prisoners Nos. 3 and 4 pleaded guilty, and though prisoner No. 5, denied the charges, he pleaded nothing in extenuation and identified the property found with him whilst in the act of concealing it in the tank, and refused to examine the witnesses cited for his defence.

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Case of DEGUMBUR DASS and others.

The jury returned a verdict of guilty against all the prisoners and with reference to the confessions made by them before the police, the magistrate and this court, the finding of property in their possession, and the evidence for the prosecution, I have in concurrence with the above verdict sentenced them to five (5) years' imprisonment each with labor and irons and under Act XVI. of 1850 to pay a fine of Rs. 65-9-3.

Remarks by the Nizamut Adawlut.—(Present: Mr. B. J. Colvin.) There is no reason to doubt the propriety of this conviction, I reject the appeal.

PRESENT:

H. T. RAIKES AND B. J. COLVIN, ESQS., *Judges.*

GOVERNMENT AND MUSST. NOYAN TARA

versus

SABER SHEIKH.

Jessore.

1855.

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Case of SABER SHEIKH.

Notwithstanding delay in preferring the charge of rape against the prisoner, he was convicted of the crime, there being no reason to doubt the evidence for the prosecution.

CRIME CHARGED.—Rape on the person of the prosecutrix, Musst. Noyan Tara.

Committing Officer.—Mr E. W. Molony, officiating magistrate of Jessore.

Tried before Mr. O. W. Malet, officiating sessions judge of Jessore on the 29th November, 1855.

Remarks by the officiating sessions judge. The man has been tried by me and found guilty of rape under the following circumstances, and I refer the case under Clause 3, Section 6, Regulation XVII. of 1817.

The poor woman on whom this outrage was committed is a young married woman about fourteen or fifteen years of age She went out in the morning of the 21st August, to ease herself, the defendant seized her and having covered her mouth with a cloth dragged her into a *Koasta Khét*, where in spite of her struggles and efforts to the contrary he effected his purpose.

It so chanced that a neighbour happening to pass by the *Khét* heard a noise, being afraid to go in, he climbed up a date-tree and from it saw what was going on, he did not like to go in by himself but beckoned silently to a friend who was sitting smoking at the door of his house close at hand, they went in together when the defendant seeing them coming, got up and ran off, they took the woman home.

This evidence is corroborated by that of others who saw the woman after the fact, and speak to her good character and the disordered state she was in. Her demeanor is that of a remarkably modest woman.

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Case of SABER SHEIKH.

The defendant in his defence states that the complaint is a false one, that he has had a pain in his stomach for some years which incapacitates him from carnal pleasure, but he brings no evidence to prove this latter point.

His evidence can say but little in his favor and in no way clear him from the accusation, and several allow that it was the common report in the village that the crime had been committed by the defendant, and one witness goes clear against him. I have tried the case with the assistance of a jury who has found the defendant guilty, in which I concur.

Considering the ease with which this crime can be committed and the misery which it entails, such as loss of caste, etc. when the parties are not of the same, I would recommend that the prisoner be punished by ten years' imprisonment with labor in irons.

Remarks by the Nizamut Adawlut.--(Present: Messrs. H. T. Raikes and B. J. Colvin) The evidence of the eye-witnesses is positive and direct as to the prisoner's guilt, and there is nothing on record to disturb the opinion of the sessions judge on its credibility. He should, however, have made some attempt to obtain explanation from the prosecutrix regarding the delay in preferring this charge before the police authorities. The offence was committed on the 21st August, and her husband's son, a boy of nine or ten years, reported the matter at the thannah on the 28th idem. Promptitude in complaining is so obviously important in supporting a charge of this nature that had the evidence been at all suspicious or the defence such as met the charge more completely, doubts might have been raised against the truth of the prosecutrix's statement. We convict the prisoner of the crime charged, and sentence him to seven years' imprisonment with labor in irons.

Bhaugulpore.

1855.

December 31.

Case of BUTTOO JOLAHA and others.

Prisoners acquitted, chiefly because the statements of the different witnesses at

PRESENT:

SIR R. BARLOW, BART., AND B. J. COLVIN, ESQ., *Judges.*

GOVERNMENT AND SHEIKH TALEEM

versus

BUTTOO JOLAHA (No. 13,) BHYRO JOLAHA (No. 14,) AND SHUMBOO (No. 15.)

CRIME CHARGED.—1st count, unlawfully assembling in connection with the rebel Sontals and wilfully murdering Kureem Mundul, Choonee Bunnea and Gundowree Passee; 2d count, being accessaries before and after the murder of the three men above mentioned; 3rd count, wounding Sheikh Karoo.

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Case of BUTTOO JOLAHA and others.

Committing Officer.—Honorable A. Eden, assistant special commissioner, exercising the powers of a joint-magistrate at Bhaugulpore.

Tried before Mr. W. Bell, sessions judge of Bhaugulpore, on the 27th of November, 1855.

different stages of the enquiry were so *precisely* the same in form as to render them unworthy of credit.

Remarks by the sessions judge.—It is one of the cases connected with the Sontal insurrection, although the prisoners under trial are not Sontals themselves but Jolahas, who have availed themselves of the anarchy consequent on the unsuppressed rebellion, to *loot* and murder their neighbours. The charges brought against the prisoners are stated above. The eye-witnesses Nos. 1, 2, 3, 4, 5, and 6 all depose clearly to the panic in the village Rungsee, and the general flight of the inhabitants, the pursuit and murder of the unfortunate men, Kureem Mundul, Choonee and Gundowree, and the wounding of the man Karoo, they differ as you will observe by the margin* as to the actual killing of each by the individual prisoner, I do not however set† very great store by that, as it is hardly to be expected that people flying for their lives should be very accurate in their observations, and it is probable that more than one prisoner struck the different victims from the description of the bodies given by the prosecutor, and not very likely all the witnesses made their observations at exactly the same moment. The witnesses Nos. 8, 9, 10, 11 and 12, are neighbours, who did not witness the actual murders, but afterwards returned to Rungsee, and heard the wounded man Karoo state that his injuries were inflicted by the prisoners.

	Kurreem Mundul	Choonee.	Gundowree	Karoo.
Prosecutor.	13 Buttoo.	15 Shumboo	14 Bhyro	14 Bhyro.
Witness No. 1.	15 Shumboo	13 Buttoo.	14 Bhyro.	13 Buttoo.
Witness No. 2.	13 Buttoo.	15 Shumboo.	11 Bhyro.	13 Buttoo.
Witness No. 3	13 Buttoo.	13 Buttoo.	13 Buttoo 15 Shumboo.	14 Bhyro. 13 Buttoo.
Witness No. 4.	13 Buttoo.	13 Buttoo.	13 Buttoo.	13 Buttoo.
Witness No. 5	13 Buttoo.	13 Buttoo.	13 Buttoo	13 Buttoo
Witness No. 6.	13 Buttoo.	13 Buttoo	13 Buttoo.	14 Bhyro. 13 Buttoo.

The prisoners before the darogah deny the charge and say

† Sic orig.

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their captors wanted money; before the magistrate they simply deny, and before the sessions court, two of them No. 14 Bhyro, and No. 15 Shumboo, reiterate the story and attempt an *alibi*, but their witnesses Nos. 15 and 16, deny all knowledge of their proceedings in any way.

The jury return a verdict of guilty.

I see no cause to discredit the story of the prosecutor and his witnesses, there is no reason alleged for their bringing such charges against these men, no enmity existing before, nor any advantage to be gained by it, the prisoners fail entirely in their defence, and by their own showing although the neighbours' houses were *looted* and burnt, their own remained untouched, for which some good reason on the part of the plunderers must have existed, I therefore fully agree with the jury, and would recommend a capital sentence on the scene of their crimes and exposure after death.

The Court will glean from the statement of the prosecutor that the wounded man Karoo died before the day of trial. It appears to me, the assistant commissioner acted unadvisedly in making the wounding of Karoo any part of this charge he should, if Karoo remained in too precarious a state for removal into the sudder station, have awaited the result of his wounds* before he committed the prisoners on his account, and afterwards he could, if necessary, have committed them in a fresh calendar for the murder or wounding as might be. Mr. Eden is quite a young officer, and with the court's approval I propose furnishing him with a copy of this remark for his future guidance.

* Paragraph 3, of Construction No. 558.

Remarks by the Nizamut Adawlut.—(Present . Sir R. Barlow, Bart., and Mr. B. J. Colvin.)

Sir R. Barlow.—I have given this case my best consideration, and am unable to come to the conclusion at which the sessions judge has arrived, that the three prisoners. Buttoo Jolaha, No. 13, Bhyro Jolaha, No. 14, and Shumboo Jolaha, No. 15, can be convicted of wilful murder upon the evidence before the Court.

No. 13, Buttoo Jolaha.
,, 14, Bhyro Jolaha.
,, 15, Shumboo Jolaha.

It will be necessary to compare the several statements of the prosecutor, Taleem, and of the eye-witnesses at various stages of the preliminary enquiry, with the evidence before the sessions court, to form a correct judgment of the case, and the whole of the proceedings must be reviewed, commencing with the report of Sham Chowkeedar, who first gave information of the murders, which took place some time in July last.

It was on the 7th July last, Sham Chowkeedar, informed the phareedar of Biswas Khanee, that he had seized the three prisoners abovenamed; they all denied the charges on which they

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are arraigned; said others, also apprehended on the same charges, had been released on payment of money and they had, in consequence of their inability to meet the demand of the chowkeedar, been brought before the magistrate.

On the 11th August, the chowkeedar was examined by the darogah, when he said the prosecutor, Taleem, told him that five or six days previously, prisoner No. 13, and prisoner No. 16, who died on the 25th November, after commitment, had killed his (prosecutor's) father Karoo, his uncle Kureem, and two others, Choonee Podar and Gundowree Passee.

On the 11th August, Sheikh Taleem was examined by the darogah of Bugghee Serai, Meeah Khan, and deposed that some fifteen or sixteen days before the prisoners, Nos. 13 and 16, came armed with a large body of Sontals to plunder his house, he and others ran off and concealed in the river, Karoo, who afterwards died from the effect of his wounds, and Kureem, could not make their escape, and were killed by No. 13, who also killed Choonee and Gundowree.

This statement he repeated in his evidence before the assistant commissioner, on the 16th August, adding the names of the prisoners, Nos. 14 and 15, as having been on the spot.

On the 6th of September, before a police jemadar and the darogah of Boonsee, Heera Lall, he charged the four prisoners with the murder of the three deceased and wounding of his father, who subsequently died of his injuries.

In the sessions court he charged all four prisoners and said that witnesses, Nos. 6, 4 and 2, and himself concealed in the jungle, that Bhyro No. 14, killed Gundowree, Sumboo No. 15, killed Choonee and Buttoo No. 13, killed Kureem, Bhyro also wounded Karoo, who said Bhyro had assaulted him.

On being cross-examined by the sessions judge, and required to explain the discrepancies apparent in his depositions before the lower court and at the sessions on this point, he was unable to give any explanation.

Witness No. 1.—This witness was also examined on the 11th August by the jemadar and darogah of Bugghee Serai, he charged *No.* 13, *prisoner*, with the murder of the three persons named there, Karoo having died subsequently, but was at that time lying severely wounded.

On the 16th August, before the assistant commissioner, he first stated No. 13 killed all those who were murdered, and then he named *all* the prisoners as the parties who had killed the three deceased persons and wounded Karoo, they were not, he said, accompanied by the Sontals, who were one *coss* distant from the spot

On the 6th September, before the two police officers, he repeated that all the prisoners were concerned and ignored the evidence he had given at the earliest stage of the investigation.

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At the sessions trial he swore, that all the prisoners, with the Sontals, came to the village of Rungsee, gave details of the part each of the prisoners took in the murder and described how each prisoner killed the man, whom he had assaulted.

Witness then deposed that he gave information to the police jemadar of the Dhoorea Phanree, who came the next day after the murder, held an enquiry and inquest on the corpses leaving them on the spot. Taleem, the prosecutor, the next day took his father Karoo home.

The witness on being cross-examined by the sessions judge was unable, that officer reports, to give any satisfactory explanation of the discrepancies which were noted at the trial on a comparison of his evidence before the sessions and before the assistant commissioner.

Witness No. 2.—Before the police charged the four prisoners with the murder; when examined by the magistrate; three of them only; in the sessions he pointed out the act of each prisoner and stated that Buttoo No. 13, killed Kureem and wounded Karoo who afterwards died of his wounds, he added that no one came to look after the corpses.

The evidence of witnesses Nos. 2, 3, 4, 5 and 6 in the mofussil is verbatim the same.

In the magistrate's court No. 3 said, the prisoners came accompanied by the Sontals and cut down the three persons who were killed, and wounded Karoo. Before the sessions judge he swore that *No.* 13, *cut down the three deceased men;* three days afterwards a burkundauze came from Komalpore and made enquiry about the corpses. Karoo was wounded and charged No. 13, as his assailant; prosecutor Taleem on *that* day took Karoo away.

Witness No. 4, deposed before the magistrate as above; in the sessions, however, he like others described how each of the prisoners attacked and cut down his man, and on being cross-examined as to the discrepancies on this point in the 2nd count, answered it was long since, and what he had said before the assistant commissioner, was the true story.

Witness No. 7.—This witness before the magistrate swore that the prisoners came with the Sontals, that *No.* 13 *cut down the three deceased* and wounded Karoo who told him the same when he saw him wounded, subsequently he stated that all four prisoners killed the deceased, and in the sessions court he again changed his story saying that Karoo told him all four prisoners had wounded him. In the sessions court the witnesses Nos. 10 and 12, varied materially as to the persons who committed the murders, Nos. 10 and 11 said Karoo charged them all, No. 12 that he charged No. 13, Buttoo, only.

The police jemadar, in his inquest of the 6th September, reported that Karoo in a weak voice charged all the prisoners.

1855.

December 31.

Case of BUTTOO JOLAHA and others.

The above abstract points out some of the discrepancies in the evidence for the prosecution, while the extraordinary conformity in the statements of some of the witnesses, whose depositions might be certified, almost as true copies, one of the other, creates so much confliction and doubt as to the real merits of the case, that it is impossible to convict the prisoners of the crime on which they are arraigned. The sessions judge has partially contrasted these statements, but has not given that weight to the circumstances of doubt, created by the confliction, which they justly merit.

He has recommended that sentence of death should pass against the three surviving prisoners. I am for their acquittal.

Mr. B. J. Colvin.—I concur. The evidence taken on each date, viz. before the assistant commissioner on the 31st August and in the mofussil on the 6th September, reads as if only one witness had been examined before either authority. The evidence of one and all being verbatim the same, in fact as if the evidence of one had been copied to answer for the evidence of the other witnesses; consequently the depositions cannot be regarded as the *bonâ fide* statements of the witnesses whose they purport to be.

SUMMARY CASES.

PRESENT:

H. T. RAIKES AND J. H. PATTON, Esqs., *Judges*.

GOVERNMENT AND KHOODEERAM SHAH *versus* HURISHCHUNDER DAS.

Rajshahye.

1855.

December 28.

Case of HURRIS CHUNDER DAS.

The commitment in this case was quashed, in order that the *nature* of the trust, said to have been abused, should be specified, under sec. 13, Act XIII. of 1850, as explained in C. O. No. 73 of Dec. 12, 1851.

CRIME CHARGED.—1st count, breach of trust, viz. embezzlement of 357 Rs. the property of Khoodeeram Shah; 2nd count, theft of Rs. 357.

CRIME ESTABLISHED.—Breach of trust.

Committing Officer.—Mr. E. S. Pearson, joint-magistrate of Pubna.

Tried before Mr. G. C. Cheap, sessions judge of Rajshahye, on the 14th September, 1855.

Remarks by the sessions judge.—This case was before tried with a jury in the month of February last, when they convicted the prisoner of theft, and concurring in their verdict he was sentenced to four years' imprisonment. The superior Court called for the case and on the 9th of May, recorded the following resolution (Messrs. Raikes and Patton, Judges.) "The Court, having perused the proceedings connected with the trial of Hurishchunder Das, gather the following facts from the statements on record, of the parties concerned in the case. A mahajun, named Khoodeeram Shah, advanced the sum of 501 Rs. to the prosecutor, Sumboonath Shah, the three witnesses on his part, and the prisoner, Hurishchunder Das, for the purpose of their joint-trade, of which an account was to be rendered to Khoodeeram Shah on a future day. These parties traded in partnership together for some time, when the prisoner, Hurishchunder Das, absconded with 357 Rs. and commenced trading on his own account. Sumboonath Shah laid an information of theft against the prisoner, and on his arrest, prosecuted him for stealing this money, and the indictment recites that the money stolen belonged to the prosecutor's employer, Khoodeeram Shah. The sessions judge observes in his remarks that he convicts the prisoner under Act XIII. of 1850, of stealing money entrusted to his charge. The Court consider that no conviction for a breach of trust can be had on a charge of theft only, and the circumstances, above disclosed, do not, in their opinion, warrant a charge of theft of money belonging to Khoodeeram Shah. Neither do the Court see, how the prisoner's partner, Sumboonath Shah can prosecute him for theft of money in their joint-possession. The Court, therefore, quash the commitment. Should the magistrate be of opinion that the prisoner be committed for a breach of trust, under the provisions of Act XIII. 1850, he is competent to do so, bearing in mind, that in conformity with Section 13, of that law, the nature and purport of

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Case of HURRIS CHUNDER DAS.

the trust which has been abused, must be specified and the charge grounded on the prisoner's fraudulent breach of the engagement. (Vide Nizamut Reports, page 640 for May.)" The prisoner was accordingly committed on both counts, breach of trust and theft under Act XIII. of 1850. Khoodeeram Shah appearing in person as co-prosecutor with the Government, and the same witnesses that were examined before deposed to the fact. His mofussil confession (in which he admitted he had stolen the money) was tendered as proof and proved to have been voluntarily made. In consequence of the absence of the witnesses to the foujdary confession, it could not be proved, but it was so at the former trial, and was to the same effect as the mofussil one. The jury, (the same who sat at the former trial) convicted the prisoner on this occasion of breach of trust and he has been sentenced again to four years' imprisonment, without irons, but with labor commutable on the payment of a fine. (The period he has been in confinement under the former sentence, and *hajut* being deducted.) The prisoner's defence on the present trial was, that the charge was a false one, and the prosecutor owed him 125 Rs. and to escape payment had brought this complaint. Not one of his witnesses supported his statement, and on being told he could, if he chose, examine the prosecutor to his defence he did so, who deposed, instead of owing the prisoner money, there was a balance due to him on a private account of 2 Rs.

Sentence passed by the lower court.—To be imprisoned without irons for three years four months and fifteen days and to pay a fine of 100 Rs., on or before the 13th of October, 1855, or in default of payment to labor until the fine be paid or the term of sentence expire, also to pay a fine of 225 Rs. under Act XVI. of 1850.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 1063, dated 14th December, 1855.

The Court, having perused the proceedings connected with the trial of Hurishchunder Das, observe that their resolution No. 392, of the 9th May last, distinctly pointed out, that if the magistrate be of opinion that the prisoner should be committed for a breach of trust under the provisions of Act XIII. 1850, he is competent to do so, *bearing in mind that in conformity with Section XIII. of that law the nature and purport of the trust which has been abused must be specified. (See Circular Order No. 73, of 12th December,* 1851.)

Although the sessions judge actually quotes the Court's resolution in his remarks on the case, he has neglected to give it effect and has tried the prisoner for breach of trust without any specification in the indictment of its nature and purpose. The Court, therefore, quash the commitment and direct that the provisions of the law be complied with.

PRESENT:

H. T. RAIKES AND J. H. PATTON, ESQS., *Judges.*

GOVERNMENT

versus

THAKOORDIAL SINGH BURKUNDAZ (No. 1,) RAMBERT DOSADH CHOWKEEDAR (No. 2,) AND LEENGTOORAM BURKUNDAZ, (No. 3.)

Shahabad.

1855.

December 28.

Case of THAKOORDIAL SINGH BURKUNDAZ and others.

A case cannot be referred for *enhancement of punishment*, under sec. 5, Act XXXI. of 1841.

This case was referred to the Nizamut Adawlut by Mr. R. J. Loughnan, sessions judge of Shahabad, on the 15th December, 1855, under Section 5, Act XXXI. of 1841, and Circular Order of the Nizamut Adawlut, dated 18th March, 1842, with the following report.

The facts proved against prisoner No. 1 are, that he put two persons, named Gainda and Nirgise Aheers, in confinement at his *chowkee* without the semblance of a charge against them, tied them literally neck and heels, threw them on the ground, beat and otherwise ill-treated them and forcibly took from their persons, ornaments and Rs. 34 in cash only, sixteen of which with the ornaments he made over to the mohurrir, embezzling the remainder, raised an alarm of thieves against them, as the pretext for detaining them all at night at the *chowkee* and finally took them to the thannah, at a distance of four miles hand-cuffed, the next morning on a false charge concocted by himself of coming with two other thieves to his *chowkee* with the design of robbing it. His accomplice, the chowkeedar (prisoner No. 2,) who took the aggrieved persons into custody in the bazar and marched them of to the *chowkee*, does not admit that fact, but says he found them at the *chowkee*, when the burkundaz ordered him to put them in confinement, saying they were dacoits. This statement is evidently designed to support the charge brought against the aggrieved person by prisoner No. 1, and his defence. The words used by prisoner No. 2, therefore, when he took the Aheers into custody, i. e. that the burkundaz had sent for them, coupled with the fact of the burkundaz confining them in the *chowkee* without a word of question, show that the false imprisonment of these people was the result of a conspiracy between the two prisoners.

The deputy magistrate, it appears to me, must have been wanting in a due sense of the intolerable abuse of authority of which both these prisoners were guilty, when he omitted to charge them with so serious an offence. The Court will perceive there is nothing in the charge indicating that they had either exceeded or abused their authority, or that they had been guilty of a grievous act of false imprisonment with a view to

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the extortion of money, aggravated by the maltreatment of their victims.

As the prisoners have been tried and punished for their acts, I conclude it is too late to try them on other charges more appropriate to those acts than that on which they were arraigned, and consequently that there is no possibility of bringing them to condign punishment.

The punishment, to which the deputy magistrate has sentenced them, had the maltreatment been unaggravated, would have been, I think, inadequate as an example with a view to the repression of the inveterate proneness of the police to torture and maltreat accused persons in their custody. What then shall I say when it further appears that the prisoners, Nos. 1 and 2, were guilty of illegal and unjust imprisonment according to a preconcerted plan, and prisoner No. 1, of robbery also. It appears to me, that there has been a signal failure of justice owing to the shortcomings of the deputy magistrate, and therefore place the case before the superior Court for such notice as they deem deserving of.

Since drafting the above paragraphs, I have received the annexed explanation called for, according to the standing orders of the Court, from the deputy magistrate. It calls for only one remark on my part, in regard to the charge of robbery, which I consider might have been proved. The conviction of the deputy magistrate includes the forcible taking of Rs. 34, from the persons of the complainants. The prisoner Thakoordial, gave up to the darogah only 16 Rs. as having been taken from him, it may certainly then be said that he had robbed the complainants of Rs. 18. The deputy magistrate seems not to have adverted to the terms of his convictions when he penned the first part of the 3rd paragraph of his letter.

From the deputy magistrate of Saseeram to the officiating sessions judge of Shahabad No. 36, dated the 10th December, 1855.

I have the honor to acknowledge the receipt of your letter No. 154, under date the 29th November, 1855, annexing a copy or draft of a report which you purpose making to the sudder court of Nizamut Adawlut in the case noted in the margin,* with the view of my making any remarks in explanation of my proceedings to be submitted with your report.

I most respectfully beg to observe, that, when considering the nature of the charges brought against the defendants, Thakoordial Singh Burkundaz

* Government prosecutor *versus* No. 1, Thakoordial Singh Burkundaz. " 2, Ramburt Doosad Chowkeedar. " 3, Leengtooram Burkundaz. Sentenced by the deputy magistrate of Saseeram to be dismissed from service and to be imprisoned for six months without labor.

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No. 1, and Rambert Dosadh Chowkeedar No. 2, the general character of violence of the entire case so absorbed my attention, that the circumstance of illegal imprisonment never occurred to me, and I feel grateful for the opportunity offered me by your letter of avowing the oversight.

The appearance of embezzlement or misappropriation as stated by the complainants, exists on no grounds but their own statements, in relation to any thing which might possibly be construed into preconcert. I humbly beg to observe that the evidence on the face of the proceedings of the case, would seem to point out that the meeting with, and subsequent conveyance of, the aggrieved to the *chowkee* was fortuitous. If the word robbery be considered as signifying deprivation by violence or force, prisoner No. 1, is certainly guilty of robbery.

In conclusion, I would beg to state that the punishment awarded being of double nature (inasmuch as it comprises both imprisonment and deprivation of employ and carries besides a virtual, though not expressed, sentence rendering them unfit for all Government employ) would appear to me sufficiently adequate. I trust the foregoing explanatory remarks will prove perfectly satisfactory.

I herewith re-submit the case as directed.

Resolution by the Nizamut Adawlut.—(Present: Messrs. H. T. Raikes and J. H. Patton.) No. 1092, dated 28th December, 1855.

The Court observe that the proceedings connected with the case of Thakoordial Singh and others have not been sent by the sessions judge, as stated in the report above recorded. They remark, however, with reference to the circumstances adverted to in his letter that enhancement of punishment is not a ground of reference, under Section 5, Act XXXI. of 1841.